



An  
Bord  
Pleanála

## Inspector's Report PL61.249134

**Development** (a) change of use of ground floor domestic house to crèche / childcare facility; (b) provision of ground floor gable wall windows and associated elevational changes; (c) construction of 1.80m high railing / fence and gates in line with front wall of house; (d) signage; and (e) all associated ancillary services and works.

**Location** No.15, Bóthar Stiofáin, Western Distributor Road,  
Galway

<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	17/152
<b>Applicant(s)</b>	Yvonne O'Grady
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse for 3no. reasons
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Yvonne O'Grady
<b>Observer(s)</b>	Declan Gibbons
<b>Date of Site Inspection</b>	29/11/17

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## 1.0 Site Location and Description

1.1. The application site is located in the western suburbs of Galway city, c.3.3km west of Eyre Square. The application relates to the site (480-sq.m stated area) of a detached dwelling of 2-storeys plus attic space, with a stated gross floor area of 248.7-sq.m. The front garden is fully paved and can accommodate at least 5no. cars, not including the paved space at the sides of the dwelling.

## 2.0 Proposed Development

2.1. The proposed development comprises:

- (a) change of use of ground floor domestic house to crèche / childcare facility;
- (b) provision of ground floor gable-wall windows and associated elevational changes;
- (c) construction of 1.80m high railing / fence and gates in line with front wall of house;
- (d) signage; and
- (e) all associated ancillary services and works.

## 3.0 Planning Authority Decision

### 3.1. Decision

**REFUSE** permission for 3no. reasons, although reason no. 1 is the only substantive reason, which may be summarised as follows.

1. Contrary to zoning objective and s.11.3.1(j) of the CDP, by reason of negative impact on residential amenities of neighbouring property and undermining primary use as residential dwelling due to scale of commercial use.
2. The applicant has no demonstrated that they own or reside at the application property as required by policy.
3. Deficient information regarding scale of crèche.

## **3.2. Planning Authority Reports**

### **3.2.1. Planning Reports**

The Development Management Report (08/08/17) of the Council's Planning Officer considered the issue of house ownership/occupation to be critical vis a vis Council policy under s.11.3.1(j) of the Development Plan. The report considered the proposal whereby the property owner would allow his sister live and operate a crèche / childcare facility, rather than it being operated by an owner/occupier, to be contrary to policy for the residential zone. It also considered the information regarding employees and children to be occupied, and signage details, to be inadequate to enable assessment, but had no concerns regarding overlooking or adverse visual impact. The report recommended that permission be refused for 3no. reasons as per the decision that issued by the Planning Authority.

### **3.2.2. Other Technical Reports**

CFO – No objection subject to standard conditions (19/07/17)

Drainage Section – No objections (14/07/17)

## **3.3. Prescribed Bodies**

None returned.

## **3.4. Third Party Observations**

1no. letter of observation received from Declan Gibbons of no.16 Bóthar Stiofáin, adjoining property to the north. The main grounds of objection have been repeated in his observations to the appeal and are summarised in s.6.3 of this report.

## **4.0 Planning History**

No relevant planning history.

## 5.0 Policy Context

### 5.1. Development Plan

Galway City Development Plan 2017-2023

S.7.4.3 Childcare – *‘...childcare facilities will be considered in residential areas through conversion of existing dwellings, where they do not have an undue negative effect on the residential environment. However, a residential accommodation content may be required to be retained in accordance with the provisions outlined under Chapter 11. In order to safeguard residential amenities, the Council may limit the scale of development.’*

Policy 7.4.3 Childcare – *‘Facilitate the development of childcare facilities, including after school services, at a number of suitable locations, such as, within residential areas, places of employment, city centre, neighbourhood and district centres, schools, in the vicinity of educational and community establishments and adjacent to public transport nodes.’*

Land use zoning objective (R) residential

S.11.2.8 Residential R and Low Density Residential LDR Land Use Zoning Objectives – ‘R’ residential *‘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’.*

Permitted in principle - Childcare facilities

Open for consideration - Part conversion or extension of private residence to childcare facility by the occupier of the dwelling, at a scale as would not unduly interfere with the primary use of the dwelling.

S.11.3.1(j) Conversion and subdivision of dwellings – *‘Small extensions or conversions for use as a studio, office, childcare facility or small enterprises by the occupier of the dwelling, at a scale as would not unduly interfere with the primary use of the dwelling as a private residence or adversely affect the general residential amenity will be considered.’*

S.11.13 Childcare Facilities (specific development standards)

Table 11.5 Parking Space Requirements for Different Types of Development:

Childcare facilities 1 per 20-sq.m operational space

## 5.2. Natural Heritage Designations

Inner Galway Bay SPA Site no.004031 c.1.7km distant.

Galway Bay Complex SAC Site no.000268 c.1.5km distant.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the first party appeal by Yvonne O'Grady may be summarised as follows:

Against refusal reason no.1

- The proposal is modest in scale, does not entail an extension and the house will remain predominantly a family home.
- The proposed floor space for childcare use is 33-sq.m compared to 217-sq.m GFA excluding habitable attic floor space, with the balance being for private use.
- The use is predominantly indoors, with limited exposure to neighbouring properties from noise and disturbance, mitigated by double-glazing and high boundary walls.
- The facility will be run as a Montessori under Aistear & Siolta guidelines with morning (08.30-12.00) and afternoon (12.30-15.30) sessions.
- Adequate open space and parking is provided.
- Drop-offs will be staggered to ensure safe vehicular / pedestrian access, minimising traffic impact on Bóthar Stiofáin.
- The location is in line with s.7.4.3 of the Development Plan which recommends that such facilities be located within, inter alia, residential locations.
- The site is well located in terms of existing residential, commercial and educational developments in the vicinity, in addition to Knocknacarra District Centre.

- The site is proximate to designated bus routes to the north and south of Bóthar Stiofáin, and the road designated as a primary cycle network route under the GTS.

Against refusal reason no.2:

- The property owner is the applicant's brother who submitted a letter of consent with the application.
- S.11.3.1(j) of the CDP supports such development where operated and run by the occupier of the dwelling, subject to criteria set out in the CDP. The applicant intends to occupy the dwelling with her family and run a Montessori from the property.
- The dwelling is currently rented out and it is premature and unnecessary to remove the tenants in advance of a decision on the appeal. The CDP does not require that the application site for such a facility must be occupied by the operator at the time of the application.
- The dwelling will be occupied as the family home as the primary function of the property, with minimal disturbance on the amenities of neighbouring property.

Against refusal reason no.3:

- The sessional Montessori pre-school will have capacity for 10no. children (generally 3-6-year age bracket) per morning and per afternoon session, with the applicant as the sole member of staff as her primary employment.

Other points:

- CSO data shows that the population of pre-school age children is increasing compared to 2011 data in the Bearnna ED. The proposed facility is an essential childcare service for meeting demand in the surrounding area.
- The provision of the childcare facility accords with Government policy set out in 'The National Policy Framework for Children & Young People 2014-2020, Better Outcomes Brighter Futures', supported by fiscal state subsidies in the extension of the ECCE scheme.

## 6.2. Planning Authority Response

In addition to directing the Board to the Council's Development Management Report on the case, the points made in the Planning Authority's response of the may be summarised as follows:

- The proposal (40-sq.m floor space plus 30-sq.m garden space), in view of the property not being owned or occupied by the applicant, constitutes an unacceptable intensification of the use and would create an unwanted precedent eroding the primary use of land having regard to Council policy that *'conversion for use as a childcare facility by the occupier of the dwelling, at a scale that would not unduly interfere with the primary use of the dwelling as a private residence or adversely affect the general residential amenity will be considered.'*
- It has been the general approach of the Council to limit subsidiary commercial uses within built up housing areas to operators who are owner/occupiers of the dwelling in order to safeguard the residential amenities of the area. As the property is rented out, it cannot comply with this criterion. It is not sufficient that the applicant is the sister of the owner.
- The information provided by the appellant concerning traffic movements, including staggered arrival / departure times, is questioned and it is noted that up to 20 vehicles may arrive at the change between end of morning session and commencement of the afternoon session.
- Requests that its decision be upheld.

## 6.3. Observations

An observation was received from Declan Gibbons of no.16 Bóthar Stiofáin, the main points of which may be summarised as follows:

- Inappropriate development in a residential area, with adverse impact on amenities and character and devalue property.
- Traffic safety issues due to inadequate parking for site with egress in reverse gear onto a busy road, in addition to on-street parking.



- The owner does not live at the site and there is a track record of noise and disruption from the rental property and neglect of the property, raising concerns for how the proposed use would be managed.
- A large crèche is proposed at the Galway Retail Site a few hundred metres away and will be more than able to cater for demand.

## 7.0 Assessment

The issues arising under this appeal may be addressed under the following headings:

- 7.1 Policy / principle
- 7.2 Impact on amenities
- 7.3 Traffic / roads
- 7.4 Appropriate Assessment

### 7.1. Policy / principle

- 7.1.1. It is the policy of Galway City Council (policy 7.4.3) to facilitate the development of childcare facilities, including within residential areas. Under s.7.4.3 of the Development Plan, the Council indicates that provision of such facilities through conversion of existing dwellings will be considered, but that it may be required to retain a residential content to the building and that the scale of the use may be limited by the Council in order to safeguard residential amenities. This policy is mirrored in s.11.3.1(j) Conversion and subdivision of dwellings.
- 7.1.2. Childcare facilities (assumed to mean purpose built facilities) are permitted in principle within this residential land use zone and part-conversion of a private residential dwelling as a childcare facility by the occupier is open for consideration at a scale that would not unduly interfere with the primary use of the dwelling.
- 7.1.3. The proposed development would, inclusive of WC facilities, use c.33.6-sq.m of the dwelling as dedicated space, although additional space would be required (through the dwelling) for access to the facility and to access the WC and garden play area. I do not consider the facility to be excessive in scale having regard to the gross floor area of the dwellinghouse (stated as 248-sq.m, inclusive of converted attic space), or

to be of a scale that would unduly interfere with the use of the dwelling primarily as a residence. The applicant submits that she intends to operate the proposed facility and to reside, with her family, at the property. Given the proposed layout, it would not appear feasible to operate the facility separately from the use of the dwelling house. Should the Board decide to grant permission, it may consider it appropriate to attach a condition requiring the dwelling and childcare facility to be occupied and operated together and not let, operated or sold independently of one another.

7.1.4. The Planning Authority took issue with the fact that the property is not in the applicant's ownership, but is owned by the applicant's brother (and the landlord of property currently rented out). However, I could find no policy, objective or other provision in the Development Plan that requires or even suggests that the operator of the facility to be the owner of the property. At the very least I would question the necessity and fairness of imposing such a restriction, but also its legality. The property owner has consented to the making of the application in a letter attached to the application.

7.1.5. I consider the proposed development to comply with the policies and objectives of the Development Plan for such facilities within the residential land use zone.

## 7.2. Impact on amenities

7.2.1. The proposed use would operate from 08.30 to 15.30, in two separate 3.5 hour sessions (one in the AM and the other in the PM), accommodating 10no. children per session. The facility has internal and external space. Given the relatively small scale of the facility, the structured nature of the facility (a Montessori pre-school for children aged 3-6 years) and the hours of operation, I do not consider there to be potential for significant adverse impact on the amenities of the neighbouring residential properties.

## 7.3. Traffic / roads

7.3.1. The existing parking layout and vehicular access arrangements are not proposed to be amended under this application and are similar to the other dwellings along this road. 5no. off-street car parking spaces are available to the front of the site. 2no. car parking spaces would be required based on car parking standards under the Development Plan (table 11.5) and no more than 2no. off-street spaces are required

for a residential dwelling under s.11.3.1(g) of the Development Plan. Sufficient parking is proposed.

7.3.2. Whilst the intensity of vehicular movements associated with the site will increase with the development and, therefore the potential for traffic conflict, there is nothing to suggest that the actual potential for traffic conflict will be of any significance within this suburban location, of relatively recent development, where the 50kph limit applies and where there is good visibility.

#### 7.4. Appropriate Assessment

7.4.1. Having regard to the small scale and nature of the proposed development and the distance to the nearest European site (c.1.5km), 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

### 8.0 Recommendation

8.1. I recommend that permission be **GRANTED** subject to the conditions set out under section 10.0.

### 9.0 Reasons and Considerations

It is considered that the proposed development would not seriously injure the amenities of the area, including the amenities of residential property and would be consistent with the provisions of the Galway City Development Plan 2017-2023 and with the proper planning and sustainable development of the area.

### 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning

authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The part of the house used as a childcare facility shall not be separated from the main house. In particular, it shall not be sold or let or operated independently of the main house and, when no longer required for use as a childcare facility, the use of that part shall revert to use as part of the main house.

Reason: In the interest of residential amenity.

3. The proposed childcare facility shall not operate outside the period of 08.30 to 15.30 hours Monday to Friday inclusive, except public holidays, and shall not operate on Saturdays, Sundays or public holidays.

Reason: In the interest of residential amenity.

4. The number of children to be accommodated within the premises shall not exceed 10no. in any session.

Reason: To limit the development in the interest of residential amenity.

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John Desmond  
Senior Planning Inspector

5th January 2018