



An
Bord
Pleanála

Inspector's Report ABP-300748-18

Development

Permission for development which will consist of alterations to previously approved planning ref. 15/287 (An Bord Pleanála Ref. PI 61.246053) to provide as follows: additional consulting room to ground floor to revised layout, relocation of part of residential unit to first floor level with alterations to suit, alterations to South and East elevations, additional parking space and revisions to site layout and all ancillary works

Location

6 Devon Park, Salthill, Galway

Planning Authority

Galway City Council

Planning Authority Reg. Ref.

17/305

Applicant(s)

Eoin MacCormaic

Type of Application

Permission

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s) Eoin MacCormaic

Observer(s) Leona Gibney
Jason McEvaddy
Joy Hodgins

Date of Site Inspection 10/05/18

Inspector Gillian Kane

1.0 Site Location and Description

- 1.1.1. The site is located to 0.8 km to the north of the centre of Salthill and 2 km to the west south west of Eyre Square. This site at the eastern corner of the junction formed by Devon Park and northern and southern cul-de-sacs on either side. Devon Park is part of a through route that provides a link between Taylor's Hill Road (R337), to the north, and Salthill Road Lower (R864), to the east. The existing site has a pedestrian and no vehicular access.
- 1.1.2. The site is of regular shape and it extends over an area of 0.027 hectares. It currently accommodates a part two/part single storey detached dwelling house, which is vacant. A hipped ended double pitched roof covers the majority of the two storey portion of the dwelling house, while flat roofs cover the remainder of the two storey portion. An enclosed yard with outbuildings extends over the eastern corner of the site.
- 1.1.3. Directly to the south of the subject site is a large premises operating as a dental practice. There is a medical surgery on the southern side of Salthill Road Lower in close proximity to the junction of Salthill Road Lower and Devon Park. There are a number of retail and commercial uses along Salthill Road Lower. Properties fronting onto Salthill Road Lower in the immediate general area of the junction with Devon Park however are predominantly residential properties.

2.0 Proposed Development

- 2.1. On the 1st November 2017, planning permission was sought for alterations to a previously approved residential & dental surgery dwelling to comprise an additional consulting room at ground floor, revised ground floor layout, relocation of residential component to upper floor only, alterations to elevations and four car parking spaces.
- 2.2. The proposal involves changing the permitted 110sq.m. residential use to 40.6sq.m. and increasing the permitted commercial use from 15.6sq.m. to 69.1sq.m.

3.0 Planning Authority Decision

3.1. Planning Authority Reports

- 3.1.1. **Planning Report:** Proposed development is identical to that recently refused by the Planning Authority (reg. ref. 17/171) with the exception of the submission of a traffic report. Traffic report fails to demonstrate how the parking requirements of the

development plan will be fulfilled. A large commercial use at this location was not acceptable in previous planning applications and remains the case for the subject development. The Board referred to the “very small dental surgery” in the previously permitted application which would not give rise to significant traffic generation or traffic hazard. The proposed development cannot be considered to be a very small dental surgery and would have adverse impacts on traffic movements in the area. Recommendation to refuse permission for the same reasons as reg. ref. 17/171.

3.2. Third Party Observations

- 3.2.1. A number of objections to the proposed development were submitted to the Planning Authority. The grounds of objection related to traffic impacts, the number of such business in the immediate area, over development of the site and the precedent it would set.

3.3. Planning Authority Decision

- 3.3.1. On the 20th December 2017, the Planning Authority issued a notification of intention to REFUSE permission for the following reasons:
- 1 The change of use of the ground floor from use of one room as a dental surgery to use of the entire ground floor of the building as a dental surgery, would be contrary to the provisions, policies and zoning objectives of the Galway City Development Plan 2017-2023 relating to zoned residential lands, where it is an objective to seek to limit commercial uses to a scale and type which would not unduly interfere, undermine and be injurious to the predominant residential character of an area. Therefore the proposed intensification of commercial use would, if permitted adversely impact upon the residential amenities, be contrary to the zoning objectives and the proper planning and sustainable development of the area.
 - 2 The car parking provision for the proposed development is inadequate and if permitted, would be likely to induce illegal and dangerous parking and would particularly generate roadside parking which would create a traffic hazard and endanger public safety by reason of obstruction.
 - 3 The proposed additional car parking space within the site fragments the dedicated open space into a series of unusable areas, which if permitted,

would not be a sufficient size or configuration to cater for the residential element of the development and would therefore be a substandard development and injurious to the residential amenities of adjacent properties. Therefore the proposal would be contrary to the development plan policies and standards and the proper planning and sustainable development of the area.

4.0 Planning History

- 4.1.1. **PL61.243840:** (Planning Authority reg. ref 14/165) Planning permission was refused for the partial demolition of a detached two-storey dwelling and construction of a two-storey dental surgery. The reasons for refusal related to the excessive density on site which would be out of character with the surrounding residential area, insufficient car parking which would lead to a traffic hazard.
- 4.1.2. Planning Authority reg. ref. **15/21:** Permission for the demolition of a dwelling and the construction of a two storey live / work unit with residential at first floor and dental surgery at ground floor refused on the grounds of the design of the proposed building, insufficient and inadequate open space and on-site car parking difficulties.
- 4.1.3. Planning Authority reg. ref. **15/113:** Planning permission was granted for minor alterations to elevations of existing detached two storey dwelling, including mono pitched roofs in lieu of existing flat roofs, alteration of existing pedestrian access to south to provide vehicular access and on-site parking and all associated site works: Permitted, subject to conditions, including condition no. 2 which required that the dwelling be used as a single dwelling unit only and shall not be used for any commercial purposes.
- 4.1.4. **PL61.246503:** (Planning Authority Reg. ref. 15/287) Planning permission was granted for change of use of part of front ground floor of existing dwelling as dental surgery to incorporate changes to layout as approved under planning register reference number 15/113 to include additional on-site parking and ancillary works, subject to 6 no. conditions. Condition no. 2 stated:
- “The residential use and the proposed dental surgery shall be used as a single live/work unit and the surgery shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling. Reason: To ensure that the demand for onsite car parking is minimised in the interest of residential amenity.”

4.1.5. Planning Authority reg. ref. **17/171**: Planning permission was refused for alterations to previously approved development (PL61.246053) to provide for an additional concluding room at ground floor, relocation of residential to upper floor only, alterations to elevations and 1 no. car space. Grounds of refusal were:

- 1 The change of use of the ground floor from use of one room as a dental surgery to use of the entire ground floor of the building as a dental surgery, would be contrary to the provisions, policies and zoning objectives of the Galway City Development Plan 2017-2023 relating to zoned residential lands, where it is an objective to seek to limit commercial uses to a scale and type which would not unduly interfere, undermine and be injurious to the predominant residential character of an area. Therefore the proposed intensification of commercial use would, if permitted adversely impact upon the residential amenities, be contrary to the zoning objectives and the proper planning and sustainable development of the area.
- 2 The car parking provision for the proposed development is inadequate and if permitted, would be likely to induce illegal and dangerous parking and would particularly generate roadside parking which would create a traffic hazard and endanger public safety by reason of obstruction.
- 3 The proposed additional car parking space within the site fragments the dedicated open space into a series of unusable areas, which if permitted, would not be a sufficient size or configuration to cater for the residential element of the development and would therefore be a substandard development and injurious to the residential amenities of adjacent properties. Therefore the proposal would be contrary to the development plan policies and standards and the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Galway City Development Plan 2017 -2023

5.1.1. The relevant development plan is the Galway City Development Plan, 2017-2023. The site is located on lands that are zoned 'Residential' under the provisions of the development plan. The stated objective for such zones is "To provide for residential development and for associated support development, which will ensure the

protection of existing residential amenity and will contribute to sustainable residential neighbourhoods”

5.1.2. The subject site is located in Salthill, according to figures 10.8 and 11.34 of the city development plan. Table 2.1 lists Salthill as an established neighbourhood. Policy 2.4 of the development plan seeks to:

- Encourage the development of sustainable residential neighbourhoods, which will provide for high quality, safe, accessible living environments which accommodates local community needs.
- Encourage sustainable neighbourhoods, through appropriate guidelines and standards and through the implementation of local area plans, masterplans / frameworks / area plans.
- Protect and enhance new/existing residential neighbourhoods through appropriate guidelines and standards, preparation of framework plans, development briefs and design statements.
- Ensure the design of residential developments have regard to the *Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas* (2009) and the accompanying *Urban Design Manual–A Best Practice Guide and the Design Manual for Urban Roads and Streets* (2013).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first party appeal against the decision of the Planning Authority to refuse permission was submitted to the Board by an agent for the Applicant. The grounds of the appeal can be summarised as follows:

- The subject site was a summer dwelling before being acquired by the applicant in 2013. There is no parking on site.
- The dental practice requires a second consulting room.
- Minor alterations to the layout will reduce density and increase privacy for the open space.
- The fire safety requirements for access to the first floor residential have been considered.

- The floor area has been reduced from 124.9sq.m. to 109.7sq.m., allowing an extra parking space and screened private open space of 46.2sq.m.
- The first-floor apartment allows for more privacy, access to the open space and a better layout.
- The use of the property as a dental surgery has been established.
- The site is located in a R zone, in an 'established suburb'. The dwelling is within the boundary of the city centre, the remainder of the site is outside the Galway city centre map.
- The proposed plot ratio of 0.40:1. The development plan requires a plot ration of 0.46:1. The higher plot ratio has been accepted by the Planning Authority. The Planning Authority has granted a new development to the east at a ratio of 0.46:1 and to the west at 0.69:1. Higher plot ratios were permitted at no. 14 Devon Park (reg. ref. 02/272), 31 Devon Park Road
- The ground floor footprint is to be reduced from 81.65sq.m. to 73.2sq.m. The permitted dental surgery is to be increased by an additional 53.2sq.m. Elevations will be largely unchanged save for window sizes.
- The site is zoned R within which dental practices are permissible. A dental practice at 108 Salthill Road Lower was granted permission under PL61.5.88967.
- The proposed apartment of 40.6sq.m. requires 20.3sq.m. private open space to comply with the development plan. Open space of 46.2sq.m. is proposed.
- The appellant fails to see how this can result in a conclusion that the proposed development is contrary to the provisions, policies and zoning objectives of the development plan.
- Two car parking spaces are required per consulting room. The proposed development provides four car parking spaces, including a disabled access space. The previous grant of permission provided that the unit be a single live / work unit. The subject refusal does not take account of that decision.
- The submitted Consulting Engineers report confirms that parking provision is adequate.

- The existing dwelling had no on-site car parking. Street parking is the character of the area.
- The additional consulting room is likely to be used by a Hygienist who would prolong rather than double visits to the building.
- An additional space would not be possible without significantly altering the form of the building.
- The Board is requested to repeat the condition requiring a single live / work unit and that the surgery not be sold or let save as part of the dwelling.
- Page 155 of the development plan notes that in Salthill, car parking provision may be off-set by sustainable transportation contributions where it is deemed appropriate on grounds of urban design or sustainability.
- The car parking layout permitted under PL61.246053 was considered acceptable by the Board. The use of the building as a dental surgery was also considered acceptable.
- The reduction in footprint, reduction in scale of the existing building and the change requested will have minimal effect on the neighbourhood.
- In response to the objection of Dr Jason McEvaddy, a dentist at Devon Park Dental, it is noted that Mr Dunleavy also of Devon Park Dental commented on the range of non-residential uses in proximity of the dental surgery (Planning Authority reg. ref. 92/229 refers).
- The Board is requested to grant permission. The use of the site as a dental practice has been accepted and the addition of an extra consulting room will not have a detrimental effect on the proper planning of the area.

6.2. Observations

6.2.1. **Leona Gibney:** Objects to the over development and subsequent volume of traffic increases at an already very busy and dangerous junction. Double the staff and double with patients will result in double the traffic. Proposed development is not a live / work unit. The proposed density is not appropriate for a residential area.

6.2.2. **Jason McEvaddy:** There is no precedent for such development in the area. The two comparisons suggested by the appellant are 16 years old and under a different

development plan. The third example offered by the appellant was refused permission for retention as two separate units on traffic grounds.

- 6.2.3. **Joy Hodgins:** This is already a very busy junction, any further development that would increase the traffic would be hazardous.

7.0 **Assessment**

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development including the various submissions on file. I am satisfied that the issues raised are as follows:

- Principle of development
- Traffic / Car Parking

7.2. **Principle of development**

- 7.2.1. The principle of a dual use of a dental surgery and a live / work residential unit on the subject site has been established by the Board decision under PL61.246053. in the Boards direction dated 16th May 2016, the Board stated that in deciding not to accept the Inspectors recommendation to refuse permission, “there was significant benefit in having the existing structure refurbished and re-used. The Board further considered that the very small dental surgery proposed, located adjacent to a very large residential catchment, was an acceptable use that would not give rise to significant traffic generation or a traffic hazard. The Board did not consider that the residential amenity value of the dwelling which has no private rear open space would be significantly compromised by the use or the car parking layout proposed.”
- 7.2.2. The question therefore is whether the proposed intensification of the dental surgery premises constitutes more than “a very small dental surgery” or is one that would “give rise to a significant traffic generation or a traffic hazard”.
- 7.2.3. This development has not been implemented and on the date of my site visit, the dwelling was unoccupied.

7.3. Scale of Proposed Development

- 7.3.1. As noted above, the Board considered the recently permitted a 10.22sq.m. dental surgery in a portion of the 124.96sq.m dwelling, to be “very small”. The dental surgery would clearly be ancillary to the main use of the dwelling as a residence.
- 7.3.2. The proposed development involves an increase in the floor area of the dental surgery from the permitted 10.22sq.m. to 69.1sq.m. to comprise almost the entire ground floor – with the exception of the proposed entrance to the first-floor residential unit. The proposed dental surgery would represent almost twice the floor area of the residential element (36.5sq.m.). By any standard, this proposed ground floor surgery cannot be considered to be “very small”.
- 7.3.3. I note that under PL61.243840 the Board refused permission for the partial demolition of the dwelling and the construction of a two storey dental surgery. The proposed development sought two surgeries, waiting area, records, x-ray and other ancillary space on the ground floor (104sq.m.) with office and staff use at the first floor. 4 no. car spaces were proposed. The reasons for refusal related to the scale, density and design and traffic implications.
- 7.3.4. The principal of development that was accepted by the Board was that the residential use of the building was primary and that a very small scale commercial use could be accommodated as it would be clearly an ancillary and subordinate use. The proposed development which moves significantly to a predominant commercial balance, cannot be considered as one which would not impact the residential character of the wider area. It is considered the proposed intensification of use is contrary to the zoning objective of the area which provides for supporting development which ensures the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods.

7.4. Traffic / Car Parking

- 7.4.1. The applicant submitted a Traffic Report to the Planning Authority in support of the proposed development. I note that the report refers to the proposed development as comprising the demolition of the existing dwelling which is not correct.
- 7.4.2. The report states that the site access arrangements granted under the previously permitted application would comfortably accommodate the traffic generated by the

propose development, will operate within levels of acceptable capacity without undue detrimental effects on the existing road network.

- 7.4.3. The report provides a TRICS analysis assuming 5 no. employees and concludes that 4 no. arrivals will be made at the peak hours of 11.00-12.00 and 13.00-14.00 with departures at the same rate. The report states that as this traffic generation occurs outside of the road network peak hours, the heavily trafficked R864 and R337 will not be impacted.
- 7.4.4. Reference is made to the availability and frequency of on-street car parking in the area and the city centre location of the subject site which will promote sustainable modes of transport.
- 7.4.5. The proposed development would involve a staff of 5 no. one of whom would be residing on the upper floor. The development plan requirements for a development such as this is 2 no. spaces per consultation room and 1 no. space for the residence – a total of 5 no. spaces. In principal a shortfall of 1 no. space in such a central area is not material. However given that the Board has considered a two-room dental consultation surgery to be excessive on the grounds of traffic implications, previously, I see no evidence that such a position should be reversed. Further, the previously permitted single consultation room was expressly permitted on the grounds of its very small scale, a claim that cannot be accepted for the proposed development.
- 7.4.6. It is considered that the proposed quantum of car parking would be insufficient for the extent of commercial activity proposed and this would lead to an increase in on-street car parking in a residential area that already experiences significant traffic congestion.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development in a fully serviced built-up urban area, no appropriate assessment issues arise and it is considered that the proposed development would not 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 permission be REFUSED for the following reasons

- 1 The proposed intensification of a permitted but as yet undeveloped commercial use, as part of a residential dwelling in a predominantly residential area of Salthill, is considered to be contrary to the zoning objective of the area which provides for supporting development where it ensures the protection of existing residential amenity and contributes to sustainable residential neighbourhoods. The proposed development changes the permitted use of the existing dwelling from primarily residential to primarily commercial, with a supporting small scale residential component. Therefore, the proposed development is not in accordance with the proper planning and sustainable development of the area.
- 2 It is considered that the proposed level and also the nature of the layout of on-site parking car parking proposed would be insufficient to serve the proposed development, which is located on and served by a narrow cul-de-sac road. The absence of adequate parking would create increased on-street car parking in the area, which would result in obstruction to the free flow of vehicular traffic and of pedestrians in the area, and would generate an unacceptable level of traffic movements on the cul-de-sac road. The proposed development would, therefore, endanger public safety by reason of traffic hazard and would be contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

22 May 2018