



An
Bord
Pleanála

Inspector's Report ABP-301115-18

Development	Permission for 1. Demolition of existing single storey side extension and construction of new 2-storey side extension. 2. Construct a single storey porch to front of existing dwelling house. 3. Construct single storey extension to rear of existing dwelling house. 4. And all ancillary site works
Location	12 Devon Park, Salthill, Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	17/352
Applicant(s)	Rebecca Mooney & Ruairi Cavanagh.
Type of Application	Permission.
Planning Authority Decision	Grant permission subject to conditions
Type of Appeal	Third Party
Appellant(s)	Bernadette Gannon.
Date of Site Inspection	7 th July 2018
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. The appeal site has a stated area of 0.0268 hectares comprises an established dwelling site at Devon Park, approximately 800 north of the centre of Salthill. Devon Park is part of a through route that links Taylor's Hill Road (R337) to the north and Salthill Road Lower R864 to the east. The appeal site is located on a cul de sac off the through route and comprises an end of terrace, two storey dwelling house which has a single storey side extension. The dwelling is enclosed to the front of the original dwelling structure by a low boundary wall adjacent to the public footpath with pedestrian only access to a narrow front garden band. A grassed garden is provided to the rear of the dwelling. Development in the vicinity is predominantly residential in character.

2.0 Proposed Development

2.1. The application seeks permission for demolition of existing single storey side extension (11.3m²) and construction of a new two storey side extension, a single storey porch to the front of the existing dwelling and a single storey extension to the rear and all ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated 9th February 2018 Galway City Council decided to grant permission subject to 11 conditions which included the following of particular note:

Condition 2. Revised front elevation and proposed ground floor plan to be submitted which omits the proposed front elevation porch.

Condition 3. Foul sewer to the rear of the property to be left fully protected and accessible.

Condition 4. The proposed first floor bathroom windows to be glazed in obscure glass and opening sections restricted to top hung pivot.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planner's report notes scale of extension would result in minimal overshadowing impacts on the site to the northeast and considers that the proposed porch is out of character and should be omitted by condition.

3.3. **Prescribed Bodies**

3.3.1 Irish Water submission indicates no objection subject maintenance of access to communal foul sewer.

3.4. **Third Party Observations**

3.4.1 Submission from the appellant to the local authority raises issues raised in the appeal with respect to ownership and access issues, overbearing impact on garden, impact on privacy. Sewerage problems arising from overflow and leakage. Impact of porch on symmetry of the house. Past construction activities resulting in odour release, dampness.

4.0 **Planning History**

No apparent planning history on the appeal site.

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 suburb. 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).

5.1.3 Section 11.3.1.(l) Residential Extensions

“The design and layout of extensions to houses should complement the character and form of the existing building, having regard to its context and adjacent residential amenities.”

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by neighbouring resident Bernadette Gannon, 10 Devon Park. Grounds of appeal are summarised as follows:

- Area marked blue on map attached forms part of her property.
- Loss of amenity from proposed rear extension diminution of enjoyment of rear garden arising from overshadowing.
- Trees and shrubs were cut without permission.

- Impact on privacy.
- Sewer line crosses the site and has in the past been subject to blockage and overflow.
- Access for maintenance and oil delivery to side of no 12 has been prevented.
- Obstruction caused by car parking in front of appellant's property.
- Proposed porch will destroy the symmetry of house no 8, 10 and 12.
- Odour release since construction works commenced in the dwelling damp patch.

6.2. Applicant Response

6.2.1 The response by John Mooney & Company Consulting Engineers on behalf of the first party is summarised as follows:

- Area shaded blue is within the applicant's folio but does not form part of the application site.
- No loss of amenity to appellant's dwelling.
- Extension is in accordance with good design. Rear extension would constitute exempted development.
- Access to sewer will be maintained.
- Refute assertion regarding a right of way over the property.
- No additional car parking required.
- Front porch is in keeping with the overall streetscape however was omitted by Galway City Council by condition.
- Issues with regard to previous construction work are not relevant to the appeal.
- Grounds of appeal are frivolous and vexatious and not based on sound planning issues.

6.3. Planning Authority Response

6.3.1 The Planning Authority did not respond to the appeal.

7.0 Assessment

7.1. I note that the first party in response to the appeal has asserted that the grounds of appeal are frivolous and vexatious and has urged the Board to deem the appeal invalid. I note that a number of issues raised with regard to previous works, alleged removal of trees are not relevant to consideration of the appeal case on its planning merit. On the question of contested land adjoining the site (outside the site boundary) and allegations of a right of way over the appeal site, I cannot adjudicate on the opposing claims. I would note in response to issues regarding legal interest that all the matters raised are essentially civil matters between the parties and are not strictly matters for determination within the scope of planning legislation. In this regard I would refer the parties to Section 34(13) of the Planning and Development Act 2000, as amended as follows: *“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”*

7.2. As regards the principle of the proposed extension, which is intended to provide improved residential accommodation, it is supported in terms of national, regional and local planning policies. The main issues to be considered in this case relate to the scale and design of the proposed extension and the question of impact on established residential amenity of adjacent properties.

7.3. Regarding the proposed front porch extension, I am inclined to agree with the conclusions of the planning officer of the local authority that the proposed porch would be out of character within the terrace and therefore I consider it appropriate that this element be omitted.

7.4. As regards the proposed two storey side extension I consider that in terms of design scale and materials it takes its reference from the established dwelling on the site

and in visual terms integrates appropriately with the existing dwelling. I note the narrow width of the proposed bedroom 3 at first floor level (1.86m x 4.89m) which does not comply with the recommended minimum room width for bedrooms 2.1m as set out in the Quality Housing for Sustainable Communities, Best Practice Guidelines Department of the Environment Heritage and Local Government 2007, however in terms of floor area it provides 8.64m² where minimum floor area is 7.1m². I note that the internal room layout within the proposed extension appears poorly integrated and a reconfiguration would in my view achieve a better standard of living space as a family dwelling. I note that a condition would apply that the dwelling and extension be occupied as a single dwelling unit. Given the scale and nature of the extension the proposal is not likely to give rise to additional parking requirement,

- 7.5. As regards the impact on the residential amenity of the adjacent dwellings in terms of overshadowing and outlook, it is reasonable that the amenities and privacy of adjoining dwellings and the established character of the area be protected. On the issue of potential for overshadowing of the appellant's dwelling and garden, I note that the two storey element extends approximately 2m behind the established rear building line and given its scale and setback from appellant's property boundary (7m) is not likely to give rise to overshadowing of any significance. The proposed single storey extension to the rear of the dwelling has a monopitched roof between 3m and 2.95m in height therefore will not give rise to significant impact on the adjacent properties. On the issue of privacy, I find no basis for the assertion that the proposal will give rise to any significant impact. I note that the proposed rooflights to the upper floor side elevation serve a bathroom and landing respectively. I note that a window is shown on the southwestern side elevation, (though not indicated on the floor plan) serves a bathroom. New window to the rear two storey element does not give rise to any additional overlooking issue.
- 7.6. On the matter of protection and maintenance of sewer lines within the rear garden of the property I note submission from Irish Water indicating no objection to the proposal subject to standard requirements.

7.7. On the issue of Appropriate assessment, having regard to the nature of the proposed development and the established connection to existing public services together with the separation from any designated European Site and having regard to the source pathway receptor model, it is not considered that the proposed development is likely to have significant effect either individually or in combination with other plans or projects on a European Site. It is therefore considered that a stage 2 appropriate assessment and submission of an NIS under the Habitats Directive (92/43/EEC) is not therefore required.

8.0 Recommendation

8.1. I have read the submissions on the file, visited the site and had due regard to the development plan and all other matters arising. I recommend that the Board uphold the decision of the planning authority and grant permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the Galway City Development Plan 2017-2023 it is considered that the proposal would comply with the zoning objective for the site and would be compatible with the visual and residential amenities of the area and would not impact unduly on the residential amenities of adjacent properties. No appropriate assessment issues would arise. The proposal would thus accord with the proper planning and sustainable development of the area.

Conditions

- 1 The development shall be carried out and completed in accordance with the plans and 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 proposed development shall be amended as follows:

The proposed front porch extension shall be omitted. Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed save as part of the dwelling/

Reason: To restrict the use of the extension in the interest of residential amenity.

4. The external finishes of the proposed extension (including roof tiles / slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

Brid Maxwell

Planning Inspector

11th July 2018