



An
Bord
Pleanála

Inspector's Report ABP-301504-18

Development

Development at 15 Fairgreen Heights to consist of a) change of use from domestic dwelling to community dwelling house as defined in Technical Guidance Document B, Fire Safety - Volume 2 - Dwelling Houses 2017 / b) demolition of standalone storage sheds located to rear garden (one of which forms the boundary with adjoining property No. 26) & c) change of front (northern) elevation to consist of 2 no. enlarged windows to first floor. Gross floor area 163.75sqm, demolition 20sqm.

Location

15 Fairgreen Heights, Tuam, Co Galway

Planning Authority

Galway County Council

Planning Authority Reg. Ref.

18/134

Applicant(s)

Respond Housing Association

Type of Application

Permission

Planning Authority Decision

Grant

Type of Appeal	Third Party
Appellant(s)	1. Ellen Flynn 2. Tom Creavan 3. Sally & Tommy Dunne 4. Mary Timmons 5. Julian & Patricia Ryan 6. Patrick Maughan 7. James O'Rourke 8. M. Casey 9. James Cleary 10. Frank Biggins
Observer(s)	None
Date of Site Inspection	10/07/2018.
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located in the small residential housing estate of Fairgreen Heights, to the north of the town centre of Tuam. The two-storey detached dwelling is one of 32 no. detached dwellings of varying styles and designs. Being located on the central spine road, the subject site has a rear garden access at the side. The dwelling is bound on all sides by similar dwellings.

2.0 Proposed Development

- 2.1. On the 9th February 2018 planning permission was sought for the change of use of the existing two storey dwelling (163.75sq.m.) from a domestic dwelling to a community dwelling house. The proposed development involves the demolition of an existing storage shed (50sq.m.) and alterations to the front elevation of the dwelling in the form of 2 no. enlarged windows.
- 2.2. A letter on file from the applicant Respond Housing Association, states that the proposed development has come about through the 'Time to Move on from Congregated Settings" which seeks to move from large group homes to mainstream accommodation with basic assistance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 5th April 2018 the Planning Authority issued a notification of intention to GRANT permission subject to 6 no. standard conditions.

3.2. Planning Authority Reports

- 3.2.1. Planning Report: As community facility listed as 'open for consideration' on lands zoned residential, proposed development is acceptable with no impact on adjoining residents. Recommendation to grant.

3.3. Prescribed Bodies

- 3.3.1. Transport Infrastructure Ireland: No observations.

3.4. Third Party Observations

3.4.1. A large number of objections to the proposed development were submitted to the Planning Authority. The issues raised can be summarised as follows:

- Proposed development description is misleading: site notice referenced Technical Guidance which is unclear and unexplained.
- Technical Guidance defines a community dwelling house as a single storey building with no more than 8 bedrooms.
- Concerned about who will live in the house, who will operate it and the nature of activity within the property.
- Fairgreen Heights is not an appropriate location for the proposed development.
- Traffic concerns: property is located at a T-junction, fears that cars, mini-buses and vans will lead to traffic congestion.
- Inconsistencies regarding removal of boundary walls on the planning drawings.

4.0 Planning History

4.1.1. Planning Authority reg. ref. **04/2988**: Planning permission granted for extension to existing dwelling.

4.1.2. Planning Authority reg. ref. **17/650**: Planning permission granted for retention of dwelling house.

5.0 Policy Context

5.1. Tuam Local Area Plan 2018-2024

5.1.1. Adopted on the 22nd October 2018 and effective from 19th November 2018.

5.1.2. The subject site is located on lands zoned Residential Existing. Community facility is open for consideration in such zones. The plan states that a use that is classified as Open for Consideration is one that the Local Authority may permit where it is satisfied that the suggested form of development will be compatible with the policies and objectives for the zone, will not conflict with permitted uses and conforms to the proper planning and sustainable development of the area, including the policies and objectives set out in the Local Area Plan.

5.2. **Natural Heritage Designations**

5.2.1. The subject site is located 1.7km from the Lough Corrib SAC.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.1.1. Ten appeals against the decision of the Planning Authority to grant permission have been submitted to the Board by residents of Fairgreen Heights. The grounds of the appeals can be summarised as follows:

6.1.2. **Evelyn Flynn, 34 Fairgreen Heights.**

- Resident of Fairgreen Heights, in close proximity to the proposed development.
- The site will need to cater for the parking requirements of HSE employees. Ambulance, HSE vehicles. No provision for parking.
- Respond have indicated that the dwelling will not be a half-way house or a drop-in centre, but this cannot be enforced in the future. Once permission is granted there will be no restrictions.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection and Technical Guidance Document Part B.

6.1.3. **Tom Creaven, 10 Fairgreen Heights**

- File is incomplete – basic drawings submitted with no information from the applicants. It is submitted this was done to conceal the proper plan. Objectors did not have adequate information on which to base their objection.
- The applicants unsolicited further information appears to be date stamped by the Planning Authority one month after it was written. This deprived the objectors of the opportunity to respond.
- Respond have not indicated what they intend to use the property for. The Board must consider the “Time to move on from Congregated Settings” document.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision, copy of the Technical Guidance Document Part B and a copy of the Time to Move on document.

6.1.4. **Sally & Tommy Dunne, 3 Fairgreen Heights**

- No precedent for this type of community dwelling in the estate or in Tuam.
- No details of who will be using the facility.
- No indication of this is the first application for future development to expand – note the demolition of the rear sheds. This will impact on the residents of no. 15.
- No evidence that the policy on which this development is proposed has been a success. Anecdotal evidence suggests change is stressful for institutionalised residents.
- No details of measures to protect the safety and security of the residents.
- No details on the interaction between Respond and the HSE who will be the end users.
- Details of the ownership and funding of the proposal have not been provided.
- The Board must consider the “Time to move on from Congregated Studies” document.
- The Planning Authority granted the application without considering the objections.
- The unsolicited information submitted by Respond states that there will be multiple residents with one carer. There is no HSE model to allow for only one carer.
- It is assumed that carers will work on a shift basis resulting in traffic in and out of the premises. Deliveries to the site will also generate traffic.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision, copy of the Technical Guidance Document Part B and a copy of the Time to Move on document.

6.1.5. **Mary Timmons, 1 Fairgreen Heights**

- With the increase in traffic, there is no mention of upgrading the infrastructure – footpaths or roadways.
- Most of the residents of Fairgreen have been there since the development was constructed. It has a unique age profile. There are no other community houses in the estate.
- The subject house no. 15 is at a junction – the busiest section of the estate.

- No consideration was given to the objector's concerns.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision and a copy of the Technical Guidance Document Part B.

6.1.6. **Matt Lawless 25 Fairgreen Heights**

- The objectives of Respond are unknown. They have not engaged with local residents and the site notice was vague.
- It is suspected that the proposed development is a step towards a commercial development. The sheds to be demolished at the rear will leave room for expansion.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of the decision of the Planning Authority and a copy of the Technical Guidance Document Part B.

6.1.7. **Julian & Patricia Ryan, 8 Fairgreen Heights**

- Respond have indicated that this will not be a halfway house or a drop-in centre but there is no assurance that this will not occur in the future. Once permission is granted there will be no restrictions.
- Respond have not engaged with local residents. It is submitted that the unsolicited additional information rather than engagement demonstrates a detachment from the long-term residents. The residents are no suspicious that the premises will become a healthcare facility operated by the HSE.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision and a copy of the Technical Guidance Document Part B.

6.1.8. **Patrick J & Loretta Maughan, 19 Fairgreen Heights**

- Staff, employees of the HSE and visitors to the site will require parking. No drop-off / pick-up spot, service entrance or disabled parking has been proposed.
- It is suspected that the proposed development is a step towards a commercial enterprise.

- Respond have indicated that this will not be a halfway house or a drop-in centre but there is no assurance that this will not occur in the future. Once permission is granted there will be no restrictions
- Respond have not engaged with local residents. It is submitted that the unsolicited additional information rather than engagement demonstrates a detachment from the long-term residents. The residents are no suspicious that the premises will become a healthcare facility operated by the HSE.
- The proposed development would set a precedent. This is concerning given the age profile of the residents. It is questioned whether Respond seek to buy other houses in the estate to create an enclave of community dwellings.
- The residents are concerned by the lack on a long-term plan.
- The need for such a facility may dissipate and that the dwelling would be re-classified as a half-way house.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision and a copy of the Technical Guidance Document Part B.

6.1.9. **James O'Rourke, 5 Fairgreen Heights**

- Most of the residents of Fairgreen have been there since the development was constructed. It has a unique age profile. There are no other community houses in the estate.
- The subject house no. 15 is at a junction – the busiest section of the estate.
- The proposed development would set a precedent. This is concerning given the age profile of the residents. It is questioned whether Respond seek to buy other houses in the estate to create an enclave of community dwellings.
- The residents are concerned by the lack on a long-term plan. The need for such a facility may dissipate and that the dwelling would be re-classified as a half-way house.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision copy of the Technical Guidance Document Part B and a

6.1.10. **M. Casey, 2 Fairgreen Heights**

- Respond have not engaged with local residents. It is submitted that the unsolicited additional information rather than engagement demonstrates a detachment from the long-term residents. The residents are no suspicious that the premises will become a healthcare facility operated by the HSE.
- The proposed development would set a precedent. This is concerning given the age profile of the residents. It is questioned whether Respond seek to buy other houses in the estate to create an enclave of community dwellings.
- The residents are concerned by the lack on a long-term plan. The need for such a facility may dissipate and that the dwelling would be re-classified as a half-way house.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision and a copy of the Technical Guidance Document Part B and a copy of the Time to Move on document.

6.1.11. **James Cleary 17 Fairgreen Heights**

- The proposed development would set a precedent. This is concerning given the age profile of the residents. It is questioned whether Respond seek to buy other houses in the estate to create an enclave of community dwellings.
- The Board is requested to refuse permission. The appeal is accompanied by a copy of the letter of objection, copy of decision and a copy of the Technical Guidance Document Part B.

6.1.12. **Frank Biggins, 15 Fairgreen Heights**

- Has lived in Fairgreen Heights since the estate was built. The community is settled and established, with most residents having lived there since they built their houses.
- Respond have not considered the environment. They submit that the residents of the community dwelling will fit the profile of existing residents. As the residents will have an intellectual disability who will need full time care it is incorrect to say they will merge into the community.

- The proposed demolition of the shed adjoining the garden of no. 15 will leave it very exposed and overlooked.
- Respond did not provide any details of what is proposed. It has emerged that they will not be involved in the day-to-day running of the premises
- The demolition of the sheds is a step towards a commercial enterprise.
- The Planning Authority did not give proper consideration to the objector's concerns.
- There is no precedent for such development in the area.
- The Board refused permission to Respond in Portlaoise.
- The Board is requested to refuse permission.

6.2. Applicant Response

- 6.2.1. None on file.

6.3. Planning Authority Response

- 6.3.1. None on file

6.4. Further Responses

- 6.4.1. **Evelyn Flynn**, Fairgreen Heights: Applicant has not indicated what type of housing project they intend to operate. No details given of the true intentions. Has no objection to adults with intellectual disabilities living in the house and requests that the Board restrict use to same.
- 6.4.2. **James O'Rourke**, Fairgreen Heights: Respond initially sought a 4-bed house, this was changed to a community dwelling house. By definition this should be a 1-storey house. Respond have not indicated what type of house this will be, who will occupy it, who will operate it. Insufficient parking proposed – staff, visitors.

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 from the applicant and the

appellants. I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Principle of development
- Environmental Impact Assessment
- Appropriate Assessment

7.2. Principle of Development

- 7.2.1. The subject site is zoned residential in the Tuam LAP. 'Community Facility' use is open for consideration in such areas.
- 7.2.2. It appears from the appeals and observations on the file that the concern of the appellants is lack of information on who will be using the proposed facility, who will operate it and how it will affect the amenity of Fairgreen Heights.
- 7.2.3. In submitting unsolicited additional information to the Planning Authority, Respond stated that the proposed development will be used as a standard residential accommodation for 4 no. elderly tenants plus a full time live in carer, managed by Rehab Ireland. The future tenants are from Tuam and have been living in the HSE Toghermore Campus which is to be closed. It is stated that the tenants will be elderly residents with mild disabilities who seek to live independently but require basic assistance in doing so. Responding to the objections of the local residents Respond states that will not be a community centre, drop-in centre or halfway house, it will function the same as any other dwelling within the estate. It was stated that the tenants do not drive and that the subject dwelling was chosen for its proximity to the town centre. There is sufficient room to cater for the carer's car.
- 7.2.4. It is considered that the use of the dwelling as a community facility will operate as a normal domestic dwelling, with the exception that a full-time carer will live on-site. This is no different to the use of a carer by an older person in their own home. I am satisfied that the use of the property as a community facility will not affect the residential amenity of Fairgreen Heights and that no adverse impacts will occur.
- 7.2.5. Regarding the demolition of the sheds to the rear. The existing sheds are single storey and so do not protect the adjoining properties from overlooking. Their removal will not affect the view from or to windows of the dwellings.

- 7.2.6. Regarding future use or expansion of the property, such developments would require development consent and as such would be subject to normal scrutiny.
- 7.2.7. I note that the LAP provides for a variety of housing options in Objective RD-4, stating that the Planning Authority shall “Require that a suitable variety and mix of dwelling types, tenures and sizes are provided in developments to meet different needs, having regard to demographics and social changes, social inclusion, life time changes, smaller household sizes, lower formation age, immigration, etc. including the provision of housing for older people, for people with disabilities and other special need households” . Further, the proposed development is considered to comply with policy SI 1 which states that it is “It is the policy of Galway County Council to support the principles of social inclusion and universal design & access, to ensure that all individuals have access to goods, services and buildings, in order to assist them to participate in and contribute to all aspects of a vibrant life within Tuam”.

7.3. **Appropriate Assessment**

- 7.3.1. 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.

7.4. **Environmental Impact Assessment Screening**

- 7.4.1. Having regard to nature of the development comprising extension to and alteration of an existing dwelling and the urban location of the site there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

8.0 Recommendation

8.1. I recommend permission be GRANTED subject to the following conditions

9.0 Reasons and Considerations

9.1.1. Having regard to the established residential use of the area, and the pattern of development in the vicinity, it is considered that, subject to compliance with the following conditions, the proposed development would be acceptable in relation to the amenity of the area and of property in the vicinity, would not be prejudicial to public health, and would generally be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance 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 development hereby permitted shall only be occupied by persons with disabilities and their carer, and for no other purpose, without a prior grant of planning permission for change of use.

Reason: In the interest of residential amenity and to limit the scope of the proposed development to that for which the application was made.

Gillian Kane
Senior Planning Inspector

20 November 2018