



An
Bord
Pleanála

Inspector's Report ABP-302432-18

Development

Outline Permission for alterations to an existing dwelling, new vehicular site entrance, division of existing house site and construction of a house on the newly separated site and all associated works.

Location

23 Moyola Park, Newcastle, Galway.

Planning Authority

Galway City Council

Planning Authority Reg. Ref.

18194

Applicant(s)

Kevin and Peter Carroll (Executors of the estate of Ms Nora Carroll)

Type of Application

Outline.

Planning Authority Decision

Refuse

Type of Appeal

First Party

Appellant(s)

Kevin and Peter Carroll

Observer(s)

1. Aelmuire Mullaney
2. Proinseas O Hogartaigh
3. Ronan Oh Ogartaigh

4. Stephen O Dowd on behalf of the
Moyola Residents

Date of Site Inspection

17th of November 2018

Inspector

Karen Hamilton

1.0 Site Location and Description

- 1.1. The subject site includes a two storey detached dwelling located on a corner site within the residential estate of Moyola Park, Upper Newcastle Road, Galway City. The dwelling fronts onto an internal road which separates the site from a common open space area along the north and a through road along the west.
- 1.2. A large side garden has been separated from the rear garden by a c 1.8m high block wall. The dwelling has private vehicular access and parking to the front. The existing dwellings in the estate range from large detached to semi-detached and those in the vicinity are similar in design and scale.

2.0 Proposed Development

- 2.1. The proposed development would comprise outline permission for the following:
 - a) Alterations to the existing dwelling including demolition of a single storey side extension, garden shed and inner garden wall and construction of a single storey extension to the rear,
 - b) New vehicular site entrance,
 - c) Division of existing house site to form two separate sites with new dividing boundary wall;
 - d) Construction of a house on the newly separated site and all associated works.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for three reasons as summarised below:

1. The proposed outline permission for the subdivision of a site and the development of an additional dwelling in the side garden on a compact corner site, would result in the new dwelling being positioned beyond the established side building line resulting in a visually obtrusive feature out of character with

the prevailing pattern, setting and architectural symmetry of residential development within Moyola Park.

2. The applicant has failed to demonstrate that this outline permission for a new dwelling and outline permission for a rear extension to the existing dwelling, would not by their design, scale, massing and proximity to adjacent boundaries, be out of character with the prevailing pattern and character of the existing dwellings and other residential development in the vicinity of the site. These developments if permitted would therefore seriously injure the residential amenities and depreciate the value of property in the area by virtue of its location and would therefore be contrary to the proper planning and development of the area.
3. The applicant has failed to demonstrate sufficient legal interest/consent for this development to be positioned over existing foul and surface water sewers, or for repositioning of these sewers, and if permitted, the development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the area planner reflects the decision to refuse permission and refers to the following:

- The proposed gable of the new dwelling would be positioned beyond that of the dwelling to the rear and the scale and proportion and building line would alter the Sylvan layout of the existing estate.
- As the application was for outline permission it could not be determined if the proposed dwelling would cause any overlooking or impact on daylight.
- The position of the new gable does not meet the minimum 1.5m in the development plan.

3.2.2. Other Technical Reports

3.2.3. Drainage- No objection subject to diversion of storm water.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

6 no. observations were received from the observers to the appeal and the issues raised are the same as those submitted to the appeal as summarised below.

4.0 Planning History

None relevant.

5.0 Policy Context

5.1. Galway City Development Plan 2017-2023

The site is located on lands zoned as R, Residential, where it is an objective “*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.*”

Infill Development

Section 2.6- Established Suburbs

Infill should not be of such a scale that represents a major addition to, or redevelopment of, the existing urban fabric. In this respect, infill development will have regard to the existing pattern of development, plots, blocks, streets and spaces. Such development will also have regard to the scale and proportion of existing buildings, building lines, massing and height of buildings in relation to the street.

Policy 2.6: Encourage additional community and local services and residential infill development in the established suburbs at appropriate locations.

Section 11.3.1 Development Standards

- The distance between side gables and side boundaries of dwellings should normally be a minimum of 1.5m.

- Vehicular access shall not exceed 3m in width.

Section 11.3.2 Development Standards for residential in Established Suburbs

- Higher density may be appropriate having regard to the prevailing pattern, form and density.
- Car parking 1 on-site space and 1 grouped visitor space per dwelling.

5.2. Natural Heritage Designations

The site is located c. 400m to the west of the Lough Corrib SAC (site code 00297).

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal are submitted by an agent on behalf of the applicant in relation to the refusal for the outline permission and the issues raised are summarised as follows:

- An additional dwelling can be accommodated within the site and comply with the proportion, scale, character and siting of the surrounding area.
- The National Planning Framework requires that at least 50% of population growth is accommodated in the five cities and suburbs of Dublin (including Galway).
- Appendix 2 includes an analysis of the existing building lines within the estate and concludes and illustrates that there is no prevailing height, building line in the estate and the proposal will not cause a negative impact on the surrounding area.
- Appendix 3 indicates the outline and general pattern of footprint of the surrounding area and illustrates that the proposal will fit with the general pattern.
- Appendix 4 shows the comparative relationships of the proposed development to roads, boundaries and other dwellings and identified similar relationships within the estate.

- The location and massing of the dwelling, as per Appendix 5, takes into consideration overlooking and overbearing on surrounding areas and can be further detailed in any subsequent permission.
- The “sylvan” nature of the estate will not be affected by the proposed dwelling.
- Any issue with the boundary distance can be further detailed.
- The west of the garden will still remain as the front garden.
- The trees will not be impacted by the development as the footpath at this location is wider than the rest of the estate.
- Correspondence was undertaken with Irish Water and the Drainage Department of the Council both by telephone and email. Irish Water advised that as the dwelling was a new build diversion of services would be required and capacity was not an issue.
- Any issues with Irish Water can be dealt with as a “pre connection” issue.

6.2. Applicant Response

The applicant is the appellant.

6.3. Planning Authority Response

None received.

6.4. Observations

Four observations were received from a resident association and the resident, and relations, of the property to the rear, south, of the site and the issues raised in the observations are similar and are summarised below:

Residential Amenity

- The proposed development will cause overlooking and overshadowing.
- The privacy of the kitchen of that property to the south of the site will be severely compromised.
- The development will cause a disruption and increase in noise.

- There is no housing need on the site as the application or the interested party live in Galway.
- There is concern in relation to disturbance to rats.

Design

- The submitted “side boundary analysis” with the grounds of appeal is flawed as it depends on the distance from houses rather than relying on the building line.
- There is no precedent for dwellings in side gardens within the existing estate.
- The proposal will removal trees which are a feature of the estate.
- The existing estate has symmetry with a mix of detached and semi-detached houses.
- The proposed development is at variance to the original density of Moyola Park.
- An outline permission cannot be used to assess compliance with the standards of the City Development Plan with regard parking, open space, privacy etc.
- The plot ratio is 0.499 which exceed the 0.46 in the development plan.

Traffic

- The location of the house will cause reduced visibility for cars.
- The Moyola estate is used as a “rat run” between two main roads facilitating traffic to the University and the Hospital.
- The renting out of properties for students and hospital workers has a negative impact on parking in the estate as they would require the provision of more than one space per dwelling.

Other

- Contamination of water pipes in 2014 caused disturbance to the water supply

6.5. Further Responses

None received.

7.0 Assessment

7.1. The main issues in this appeal and can be dealt with under the following headings:

- Impact on the Character of the Surrounding Area and the Residential Amenity
- Access and Car Parking
- Water and Waste Water
- Appropriate Assessment
- Environmental Impact Assessment

Impact on the Character of the Surrounding Area and the Residential Amenity

7.2. The proposal includes alterations to an existing dwelling to facilitate the construction of an infill dwelling within the side garden. The grounds of appeal are submitted from the owners of the property in relation to the refusal of permission relating to the location of the proposed building, impact of the design on adjoining properties and impact of works on the foul and surface water sewers.

7.3. The site is located on lands zoned for residential within an area defined as “Established Suburbs” in the development plan and section 2.6 of the plan states that infill should not be of a scale that represents a major addition to, or development of the existing fabric. In addition, it is stated that infill shall have regard to the existing pattern of development plots, blocks, streets and spaces and regard the scale and proportion of existing buildings, building lines, massing and height of buildings in relation to the street. I have addressed the overall location and design of the dwelling below with reference to impact on the area and residential amenity.

7.4. Building Line: The grounds of appeal is accompanied by an ground analysis which illustrates the location of the new dwelling set in line with the front building line of the existing dwelling. The site is located on a corner site and the new dwelling will be visible from the adjoining road network and having regard to this corner location it will be set closer to the road than the subject dwelling and the dwelling, No 9, to the rear, south of the site. Whilst I consider the proposed development complies with the

front building line of the existing dwelling I consider that building line along the west facing an internal road is also dominant and complements the pattern of development within the estate and should therefore be retained. The location of the proposed dwelling is set forward, altering the western building line which I do not consider complies with the guidance of the development plan.

- 7.5. Design: The report of the area planner did not assess the impact on the amenity of the residents in the vicinity because the proposal was for outline permission. The planning application was accompanied by indicative illustrations indicating the possible location, footprint and general design of the proposed dwelling and I consider based on that information submitted an assessment on the impact on residential amenity can be undertaken.
- 7.6. There is mix of detached and semi-detached two storey dwellings in the vicinity of the site and the overall Moyola Estate. The application is for an outline permission and the submission from the observers consider the full extent of the impact cannot be addressed and raised concern over the impact of the design of the dwelling on the surrounding area and amenity of adjoining residents. The overall design of the indicative dwelling is similar in height, scale and bulk to the existing dwelling. The existing dwelling is located c. 24m from the rear of No 9 at the south of the site and the proposed dwelling is located a similar distance, therefore I do not consider there would be any significant increase in overlooking onto this property. Having regard to the location of the proposed infill, north of No 9 there will be no increase in any overshadowing.
- 7.7. Distance: Section 11.3 of the development plan requires a minimum distance of 1.5m between side gables and side boundaries of dwellings. The proposed outline location of the new dwelling is 2.3m from the side gable of the existing dwelling therefore, I consider the proposed location is acceptable.
- 7.8. Having regard to the corner location of the site with frontage onto two internal roads of Moyola Estate and the similar pattern of development in the surrounding area particularly the site to the south, it is considered that the inclusion of an infill dwelling at this location would not comply with the guidance provided in Section 2.6 of the development plan by reason of its proposed location west of the existing dwelling. I consider that to permit an infill dwelling at this location would set an undesirable

precedent for similar development in the vicinity which would erode the character of this established suburb and have a negative impact on the residential amenity.

Access and Car Parking

- 7.9. There is currently a vehicular entrance to the front of the existing dwelling with space for one car. The proposed development includes the retention of the existing access and car parking for the new dwelling and the creation of a new access for parking off site for the existing dwelling. The report of the area planner notes the provision for 1 no space which complies with the development plan standards in “Established Suburbs”.
- 7.10. The submission from the observers refer to the impact of the additional dwelling on parking in the vicinity where the absence of more than 1 parking space will lead to parking on the street adding to congestion in an area already under pressure from on-street parking from the University and the Hospital. Upon site inspection it was formal parking bays and double yellow lines where noted on each side of the road. The proposed access will have no impact on these current road markings or designated bays.
- 7.11. Section 11.3.2 of the development plan requires 1 on-site space per dwelling and 1 grouped visitor space per 3 dwellings. Therefore I consider the provision of 1 space on site complies with the development plan and I consider the on street parking bays acceptable for visitor parking.

Water and Waste Water

- 7.12. The proposed house in the side garden is located over the mains drainage and water services. The third reason for refusal referred to the lack of details on the sufficient legal interest/ consent for this development over the existing foul and surface waters and the repositioning of these sewers. The grounds of appeal have submitted an email from Irish Water (IW) which states that a diversion is required, a slight decrease in gradient would not cause a capacity issue, detailed diversion design drawings should be submitted to allow assessment by the IW design team and a diversion agreement will be required. In addition the IW response states that IW do not allow build over assets and in certain circumstances will facilitate a build over for single storey extensions but only in exceptional circumstances where a diversion is not feasible and where certain IW conditions can be satisfied. A response from the

Drainage Section of Galway Council stated that there was no objection in relation to surface water drainage had no objection subject to the diversion of the storm water sewer being agreed prior to commencement.

- 7.13. I note the response from IW accepts the diversion of the mains drainage and water service in principle, subject to further detailed design, and the Drainage Department of the Local Authority requires works to be accommodated for the surface water. Whilst I consider the overall principle of redirecting the main drainage is acceptable, I note a route for possible diversion onto the adjoining public footpath would require the removal of mature trees which are a characteristic of the overall residential estate. In addition, it is noted that the boundary wall of the subject site and the adjoining site has been designed to avoid any build over these side gardens and having regard to the location of the mains drainage, it is reasonable to assume that this area was intended to be kept free as a wayleave.
- 7.14. Therefore, having regard to the overall design of the site, the location of the mains drainage and the proposal to reroute the services, I consider the diversion of the mains drainage would have a negative impact on the character of the area and to permit a new dwelling in this side garden would set an undesirable precedent for other similar developments in the vicinity which would further erode the character of the residential area.

Appropriate Assessment

- 7.15. Having regard to the nature and scale of the proposed development within a serviced area and separation distance to the nearest European site, 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 the conservation objectives of any European site.

Environmental Impact Assessment

- 7.16. Having regard to the nature and scale of the proposed development 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 that permission refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. The site is located on a prominent corner site in the Moyola Estate which fronts onto the internal road network along the north and west. Section 2.6 of the Galway City Development Plan 2017-2023 provides guidance for infill development in Established Suburbs where development should respect the scale and proportion of existing building, building lines, massing and height of buildings in relation to the street. It is considered that the proposed development, by reason of its location in front of the building line with the existing dwelling and adjoining dwelling to the south, No 9, and restricted nature would constitute inappropriate development of the site and seriously injure the overall character of the surrounding area and the amenities of property in the vicinity and would be contrary to the development plan guidance. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The proposed development includes possible options for the diversion of the mains drainage out of the site and along the public footpath/ road, which will lead to the disruption and removal of matures trees within the exiting public space. Having regard to the limited details or agreement submitted in relation to the provision of water and waste water to the site it is considered the proposed development is premature and would, therefore, be contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Planning Inspector

28th of November 2018