



An
Bord
Pleanála

Inspector's Report ABP-302635-18

Development	Permission and Retention permission for change of house type on Site No. 1 previously granted planning permission under Reg. Ref 10/212 (extended under Reg. Ref 16/109) to provide for two-storey, 4 bed detached dwelling with shed/garage, car parking, landscaping, boundary treatments and all ancillary site works.
Location	Lands at Rosshill Road, Roscam, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	18232
Applicant	Proofridge Limited
Type of Application	Permission and Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Martin J. Fahy
Observer(s)	None
Date of Site Inspection	13/12/2018
Inspector	Gillian Kane

1.0 Site Location and Description

- 1.1. The subject site is located on the southern side of Rosshill Road in the Galway village of Roscam. The village reads as a series of one-off dwellings rather than a defined settlement. The area is rural, with narrow unsurfaced roads and dwellings on large plots with no uniformity of design.
- 1.2. The subject site refers to the roadside plot on a larger development site. The subject site is an infill plot between a series on two-storey dwellings on a narrow cul-de-sac. The site has been set back from the road with a concrete footpath and narrow landscaping strip. A painted wooden fence separates the site from the remainder of the development site.

2.0 Proposed Development

- 2.1. On the 18th July 2018 planning permission was sought for a change of house type from that permitted under reg. ref. 10/212 and 16/109 to provide for a new House Type A comprising a two storey 4-bed detached dwelling (260sq.m.) with a detached shed (28sq.m.). Retention permission is sought for minor changes to the permitted vehicle and pedestrian entrance.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. On the 11th of September 2018 the Planning Authority issued a notification of intention to GRANT permission subject to 8 no. conditions. Conditions of note include:

3: Dwelling to be set back at least 2m from the eastern site boundary.

4: First floor master bedroom balcony to be omitted.

5: 1.8m high screen to be erected on first floor living room balcony.

3.2. Planning Authority Reports

- 3.2.1. **Environment:** Proposed effluent treatment systems is as permitted under reg. ref. 10/212.
- 3.2.2. **Planning Reports:** permission was granted for a 3/4-bedroom detached dwelling of 182sq.m. Proposed dwelling of 260sq.m. is contemporary in design but not out of character with the wide variety in the area. First floor balcony is 10m from

neighbouring party boundary and therefore should be screened by a 1.8m high screen to prevent overlooking. Proposed dwelling should be relocated 2m from the eastern boundary to comply with section 11.3.1. Minor revisions to access to be retained are acceptable. Recommendation to grant permission subject to conditions.

3.3. **Third Party Observations**

- 3.3.1. One objection to the proposed development was submitted to the Planning Authority. The grounds of the objection mirror those of the appeal made by the same party. These are discussed in greater detail in section 6 below.

4.0 **Planning History**

- 4.1.1. Planning Authority reg. ref. **08/144**: Planning permission granted for the demolition of existing dwelling and the construction of detached two-storey dwelling.
- 4.1.2. Planning Authority reg. ref. **10/212**: Planning permission granted for the construction of 4 no. dwellings
- 4.1.3. Planning Authority reg. ref. **16/109**: Extension of time granted to ref. no. 10/212

5.0 **Policy Context**

5.1. **Galway City Development Plan 2017-2023**

- 5.1.1. The site is located on lands zoned as Low Density Residential (LDR) where it is an objective “To provide for low-density residential development which will ensure the protection of existing residential amenity.” Residential use is permitted in principle in such areas.
- 5.1.2. **Policy 2.9** Low Density Residential Areas (LDR) seeks to Protect the character of these areas by ensuring new development has regard to the prevailing pattern, form and density of these areas and Protect the characteristics of these areas through development standards and guidelines.

5.2. **Natural Heritage Designations**

The site is located less than 1km from the of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal against the decision of the Planning Authority to grant permission and retention permission has been submitted to the Board by Martin J. Fahy of Rosshill Road, Roscam. The grounds of the appeal can be summarised as follows:

- The applicant has failed to comply with the planning conditions in terms of working hours, approved layout / design, unauthorised clearing of hedgerows and mature trees and road frontage. An enforcement notice has been issued.
- Work was carried out in contravention of condition no. 30 of reg.ref. 10/212.
- The entrance and driveway are non-compliant. Photos submitted.
- The site has been cleared in breach of section 151 of the Planning and Development Act 2000, as amended. Photos submitted. Copy of correspondence from Galway City Council regarding possible non-compliance. This has had an effect on the bio-diversity of the area.
- The subject development is part of a bigger development for four dwellings. The proximity of the subject site to the Galway Bay Complex SAC is noted. The subject and adjoining sites have karstic limestone outcrops throughout.
- The site was not subject to geo-technical or hydrological investigations. The development has resulted in the permanent loss of 2.5ha of limestone pavement.
- The application was not accompanied by a NIS. The City Council did not carry out an AA.
- The City Council did not request an EIA. This is in breach of their policy and the Habitats Directive.
- It is submitted that the proposed development will adversely affect the integrity of the Galway Bay Complex SAC due to the likely risk of pollutants, fragmentation and degradation of the natural habitat and a reduction in the quality of the water courses.
- The proposed development is at odds with the Development Plan policy which seeks to conserve and protect natural conservation areas within the coastal area

and along waterways and ensure that the range and quality of associated habitats and the range and populations of species are maintained.

- The proposed development has no architectural merit, impoverishes the character of the area and destroys the sympathetic architectural narrative of one off houses in a sylvan setting.
- The proposed development is not in keeping with the policy of the development plan that infill development has regard to the context of the area.

6.2. Applicant Response

6.2.1. A response to the third-party appeal has been submitted by an agent on behalf of the applicant. The issues raised can be summarised as follows:

- The appeal should be rejected by the Board as it references an incorrect application number.
- The appeal refers to the proposed development on the adjoining site. This is misleading.
- The principle of development and compliance with policy have been established under the previous planning history. The proposed development seeks a change of house type and retention of minor changes to the entrance.
- The rationale for the proposed development is to seek a more contemporary dwelling. The nature of the streetscape is such that the proposed design will not have an adverse effect. The Planning Authority considered it acceptable.
- The proposed dwelling exceeds all internal and external space requirements.
- The proposed dwelling is 18m to the side wall of the house to the west and 26m to the side wall of the dwelling to the east. No overlooking, overshadowing or loss of light will occur.
- The Planning Authority considered the minor revisions to the entrance to be acceptable.
- The proposed development is in accordance with the policies and objectives of the Galway City Development Plan, with the proper planning and sustainable

development of the area and is an efficient use of land in close proximity to Roscam and Galway.

- The applicant is fully compliant with the granted permissions on the subject site. This is noted in the Planning Authority planning report. The applicant refutes the claims that they have failed to adhere to conditions regarding working hours or removal of hedgerows. It is submitted that no enforcement action has ever been instigated or complaints received.
- The entrance and internal road are constructed as permitted, retention permission is being sought for minor revisions to the entrance to allow a greater setback. This setback with landscaping strip enhances sightlines and the aesthetic appearance.
- As there is no hedgerow on the subject site it is queried whether the appellant is referring to other lands when stating that hedgerows have been removed. The images presented by the appellant are not of the applicants site.
- The proposed development does not require AA screening, an NIS or an EIA. The subject site is not within or adjoining a designated site. The appellant does not note that the NIR carried out for the Galway City Development plan found that the development plan is not likely to have a significant adverse effect on a European site.
- There is no karst limestone on the subject site. The subject application is for a change of house type, not an application for 4 no. new dwellings.
- The development plan was subject to a full AA screening and SEA. The proposed development will not result in the intensification or urbanisation of the lands.
- The subject site was zoned for low density residential development in the previous development plan and retains that zoning in the current plan.
- The Planning Authority stated that the proposed development is not out of character with the wider area. The applicant refutes the appellants claim regarding the design of the proposed dwelling. The area is not a rural / sylvan area and is removed from the appellants dwelling by a number of two storey dwellings.
- The proposed high-quality design optimises the appropriate use of the site.
- The Board is requested to grant permission.

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 and 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
- Development for Retention
- Change of House type
- Environmental Impact Assessment
- Appropriate Assessment

7.2. Principle of Development

7.2.1. The proposed development of a change of house type on a site for which permission has been granted and in an area zoned for low density residential development is acceptable in principle, subject to other planning considerations.

7.2.2. The issues raised by the third-party appellant regarding breaches of previous planning permissions are not matters for the Board.

7.3. Development for retention

7.3.1. Permission has been sought to retain the vehicular and pedestrian entrance as built. The provision of a landscaping strip allowing a setback at the entrance is acceptable and in keeping with the pattern of development in the area. The concrete footpath is an incongruous entry on this unsurfaced rural road however it is acknowledged that it creates a sense of place to the larger development site to the rear of the subject site.

7.4. Change of House type A

7.4.1. The principle of a dwelling on the subject site has been established. Permission is sought for a change of house type only. The proposed House type A opens into the overall development with a side elevation facing the road (north). The road-facing north elevation profile is a mixture of flat, hipped and pitched roofs with a series of projections stepping forward and back and a large two storey window dominating the elevation as it breaks the eaves line. The result is somewhat disjointed and bulky. The scale of the dwelling is considered excessive relative to the plot size.

- 7.4.2. The west facing elevation has a two-storey window of 3m in width. It is considered this would cause overlooking of the private rear garden of the dwelling to the west, particularly given the placement of the living room at first floor. A similarly large two storey window is proposed on the eastern elevation. Given the separation distance of approx. 1m from the eastern boundary and notwithstanding the proposal for opaque glazing at the upper levels, it is considered the residential amenity and the privacy of the dwelling and garden to the east would be compromised.
- 7.4.3. House type A (drawing no. T058/01 02) as permitted under Planning Authority reg. ref. 10/212 is an L-shaped building of a simpler form. The eastern elevation contains no windows therefore no overlooking of the dwelling to the east will occur. Only two windows are proposed on the first floor of the western elevation, both of which are of obscure glazing. The permitted dwelling, whilst unremarkable is nonetheless more suitable to the subject site in terms of respecting the residential amenity of the adjoining properties. It is considered the suburban style of the proposed dwelling is out of character with the immediate and wider area and will not integrate well into this rural area. The proposed boundary wall is not sufficient to ameliorate the visual impacts of the proposed dwelling. It is recommended that permission for the change of house type be refused.

7.5. **Appropriate Assessment**

- 7.6. The site is located less than 1km from of the Galway Bay Complex SAC (site code 00268) and the Inner Galway SPA (site code 04031). The Galway Bay Complex is a very large (14,408.98ha) marine dominated, made up of subsidiary bays, inlets and islands. The Inner Galway Bay SPA is a very large, marine dominated, site which supports internationally important wintering populations. Given the nature of the proposed development which is a change of house type and retention of an entrance, the nature of the receiving environment which is a built-up 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.

7.7. **Environmental Impact Assessment Screening**

- 7.7.1. Having regard to nature of the development comprising change of house type and the 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

- 8.1.1. GRANT permission for the retention of the setback entrance with landscaping strip in accordance with the said plans and particulars based on the reasons and considerations marked (1) under and subject to the conditions set out below.
- REFUSE permission for the proposed change of house type A based on the reasons and considerations marked (2) under.

REASONS AND CONSIDERATIONS (1)

The proposed entrance set back with landscaping strip is in keeping with the pattern of residential development in the area and is in accordance with the proper planning and sustainable development of the area.

CONDITIONS

- 1 The development shall be retained 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.

REASONS AND CONSIDERATIONS (2)

The proposed change of house type A shall be refused for the following reasons:

- 1 The proposed House type A on this infill plot on a narrow, unsurfaced rural cul-de-sac is considered to be of a scale, size and bulk that is out of proportion with the narrow site. The suburban design of the proposed dwelling is out of character with the rural area. The large two storey windows in close proximity to the adjoining dwellings would seriously injure the residential amenity and privacy of the adjoining dwellings to the east and west. The proposed dwelling is considered to be visually obtrusive, without insufficient screening proposed. The proposed development is contrary to the proper planning and sustainable development of the area.

Gillian Kane
Senior Planning Inspector

17 December 2018