



An
Bord
Pleanála

Inspector's Report ABP-302997-18

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| Development | Construction of a two-storey four-bedroom dwellinghouse and associated works |
| Location | The Line, Rosses Upper, Rosses Point, County Sligo |
| Planning Authority | Sligo County Council |
| Planning Authority Reg. Ref. | PL 18/352 |
| Applicant(s) | Barry McDonagh |
| Type of Application | Permission |
| Planning Authority Decision | Grant |
| Type of Appeal | Third-Party |
| Appellant(s) | Ben Lewis |
| Observer(s) | None |
| Date of Site Inspection | 23 rd January 2019 |
| Inspector | Colm McLoughlin |

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1.0 Site Location and Description

- 1.1.** The appeal site is located at the end of a residential cul-de-sac off 'The Line', in the Rosses Upper residential area of Rosses Point, County Sligo. It is situated in an area primarily characterised by low-density housing, on plots of differing sizes, fronting onto local access roads and on a south-facing hillside overlooking Sligo bay.
- 1.2.** The site is stated to measure 0.138ha and currently comprises cut lawn bordered by trees and shrubs, which appear to be associated with the house adjacent to the south. There is an open shelter structure in the northwest corner of the site and an overhead electricity line follows the southern boundary. The site is surrounded on all sides by detached housing and is accessed from the southeast corner off the cul de sac, which serves two other dwellings and connects with 'The Line' (local road L-3310-0) approximately 50m to the east of the site. There is a slight drop in ground levels on site from the northern to the southern boundary.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
 - construction of a four-bedroom detached two-storey dwellinghouse with a stated gross floor area (GFA) of c.205sq.m;
 - provision of a vehicular entrance off the cul de sac to the southeast, connections to local services, landscaping and boundary treatments.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1.** The Planning Authority issued a notification of a recommendation to grant permission for the proposed development, subject to eight conditions of a standard nature.

3.2. Planning Authority Reports

- 3.2.1.** Planning Report

The report of the Planning Officer (October 2018) reflects the recommendation of the Planning Authority to grant permission and noted the following:

- the design and scale of the proposed house would be in keeping with existing development in the area;
- first-floor windows are not proposed on the northern and southern elevations, which are the elevations closest to the site boundaries;
- the proposed development would not result in adverse impacts on residential amenities by virtue of overlooking or overshadowing.

3.2.2. Other Technical Reports

- Area Engineer – grant of permission recommended, subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Submission

- 3.4.1. One submission was received by the Planning Authority during consideration of the application. This submission was received from the adjacent resident to the north of the appeal site. The issues raised are covered within the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. According to the Planning Officer's report, pre-planning discussions are stated to have been undertaken with the Planning Authority, but no details are provided. The following application relates to the appeal site:

- Sligo County Council (SCC) Ref. PL96/338 – permission granted in April 1997 for four houses and associated site works. With the exception of the appeal site (A), three of the sites (B, C & D) the subject of this permission now feature houses.

4.2. Surrounding Sites

4.2.1. Reflective of the suburban site context, there have been numerous applications on lands in the immediate vicinity, primarily relating to domestic extensions, alterations and infill housing. The following applications are considered relevant to this appeal:

- SCC Ref. PL06/1351 – permission granted on the site adjacent to the north in February 2007 for alterations to permission granted under SCC Ref. PL02/535 providing for two windows replacing two rooflights to the rear and a side and rear boundary wall, which was conditioned to be no higher than 1.8m;
- SCC Ref. PL06/500 – permission refused on the site adjacent to the north in July 2006 for alterations to permission granted under SCC Ref. PL02/535, which would have provided for three rooflights and a dormer window replacing two rooflights to the rear, due to the proximity of the window to the southern boundaries and the potential for overlooking that would arise;
- SCC Ref. PL02/535 – permission granted for a two-storey house on the site adjacent to the north in November 2002;
- SCC Ref. PL00/166 – permission granted in May 2000 for a house and associated site works on the site immediately adjacent to the south.

5.0 Policy Context

5.1. Sligo County Development Plan 2017-2023

5.1.1. The general planning policies and objectives for County Sligo are outlined in Volume 1 of the Sligo County Development Plan 2017-2023, while more specific local planning policies and objectives are outlined in Volume 2 of the Plan, including the Rosses Point Mini-Plan. The appeal site has a land-use zoning objective for 'Residential Uses' within the Rosses Point Mini-Plan.

5.1.2. The Development Plan outlines that Rosses Point is placed in the fourth tier of the county settlement hierarchy, where it is identified as a 'village sustaining rural communities'. Options to improve wastewater treatment in Rosses Point are envisaged as part of the Plan, as the current treatment system is operating at

capacity. Section 5.2 of the Development Plan outlines policies with respect to housing in urban areas, the following of which are of note:

- P-UHOU-1 – have regard to the need for sequential development;
- P-UHOU-2 – require high-quality layouts and design in developments;
- P-UHOU-4 – promote more compact forms of residential development, including infill housing.

5.1.3. In addressing town and village design, Section 12.3.2 of the Plan outlines that in facilitating compact settlements, infill proposals shall have regard to the character and context of the surrounding area. Section 13.3 of the Plan states that development management standards required for residential development in urban areas. Relevant standards include:

- minimum size of a rear garden shall be 75 sq.m;
- infill developments may be permitted if there are no overlooking issues;
- to ensure privacy rear gardens should generally be provided with a permanent durable barrier (wall or fence) with a height of 2m;
- two car parking spaces per house is required (see Table 13C).

5.2. National Guidelines

5.2.1. The following national guidelines are considered relevant in the consideration of this appeal:

- Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) (2009);
- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

5.3. Environmental Impact Assessment - Preliminary Examination

5.3.1. Having regard to the nature and scale of the proposed development 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. One third-party appeal has been submitted from the adjacent resident to the north of the appeal site. The issues raised can be summarised as follows:

- the height of the proposed house would result in loss of light and overshadowing of living rooms in the appellant's house;
- the proposed house would be sited too close to the boundary with the appellant's property and this would result in overlooking and loss of privacy for the appellant and their family;
- proposals would restrict views from neighbouring properties;
- the proposed development would depreciate property values in the area and the proposed house and layout should be revised to account for the concerns raised;
- concerns regarding residential amenity are justified given the previous refusal of planning permission under SCC Ref. PL06/500.

6.2. Applicants' Response

6.2.1. The applicant's response to the grounds of appeal can be summarised as follows:

- the appeal site previously had the benefit of planning permission for a house in 1976 and subsequently in 1997. The 1997 permission allowed for a storey and a half house (SCC Ref. PL96/338);
- the proposed roof ridge height (6.9m) would be lower than the existing roof ridge height of the house to the south (7.7m) and the appellant's house to the north (7m). Ground level at the appellant's house is 1.5m above ground level on the appeal site. This context would reduce the potential to significantly impact on the amenities enjoyed by the occupants of the appellant's house;

- repositioning of the house on site would unbalance the plans and the current proposed position provides sufficient separation distances between the house and all of the site boundaries, while allowing the screening provided by the existing trees and shrubs to be maintained;
- overlooking or loss of privacy would not arise at ground floor with the appellant's property, given the provision of two obscure-glazed windows on the northern elevation and as there is an existing boundary wall on the northern boundary, which has a maximum height of 2.4m;
- overlooking or loss of privacy would not arise at first floor to the rear, as rooflights are only proposed on the northern side of the house;
- the measures outlined under condition 4 of the permission, requiring existing trees to be maintained and protected during construction would further mitigate against the potential for overlooking or loss of privacy to arise.

6.3. Planning Authority Response

- 6.3.1. The Planning Authority's response to the grounds of appeal reaffirms their assessment of the proposed development, as initially outlined in the Planning Officer's report.

6.4. Observations

- 6.4.1. None received.

7.0 Assessment

7.1. Introduction

- 7.1.1. The subject infill site and adjoining lands are within an established residential area that is zoned for 'Residential Uses' within the Rosses Point Mini-Plan, a Plan which forms part of Volume 2 to the Sligo County Development Plan 2017-2023. I am satisfied that the principle of developing the site for a house is acceptable, subject to compliance with planning and environmental considerations, as addressed below.

Consequently, I consider the substantive planning issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Residential Amenity;
- Design & Layout.

7.2. Residential Amenity

7.2.1. The grounds of appeal assert that the proposed development would lead to loss of privacy for the appellant and their family and would result in overlooking, due to the proximity of the proposed house to the northern boundary, which is shared with the appellant's property. In response to this, the applicant highlights that neither overlooking nor loss of privacy would arise at ground floor as it is only proposed to install two obscure-glazed windows on the northern elevation facing the appellant's house and as the existing boundary between the site and the appellant's property is formed by a wall with a maximum height of 2.4m. The response of the applicant also highlights that overlooking of the appellant's property would not arise from first-floor level, as rooflights are only proposed at first-floor on the northern elevation of the house. In considering the planning application, the Planning Authority noted that first-floor windows are not proposed on the northern and southern elevations, which are the most sensitive elevations from this perspective, therefore, overlooking would not occur. Section 13.3 of the Development Plan outlines that infill developments may be permitted if there are no overlooking issues and to ensure privacy rear gardens should generally be provided with a permanent durable barrier (wall or fence) with a height of 2m.

7.2.2. The appellant's house is situated on ground elevated approximately 1m to 1.5m above ground level on the appeal site. The rear elevation of the appellant's house is approximately 7m from the boundary with the appellant's property, which is formed by a retaining wall measuring c.2m in height on the appeal site side and this is supplemented by a line of mature trees and shrubs within the appeal site. These boundaries would remain as part of the proposed development based on the proposed site layout plan drawing submitted with the application. The two proposed ground-floor obscure glazed windows, serving bathrooms, and the three proposed rooflights at first-floor level, serving bathrooms and a hall landing, would be over 7m

from the rear boundary with the appellant's property and 14m from the rear elevation of the appellant's house. Considering this context, including the existing boundaries to be maintained, and the design and layout of the proposed development, together with the absence of windows serving habitable rooms on the northern elevation facing the appellant's house, I am satisfied that the potential for direct overlooking or loss of privacy would not arise.

7.2.3. The grounds of appeal also assert that the height of the proposed house would result in a reduction of light and overshadowing of living rooms in the appellant's house. It is requested by the appellant that the layout of the development be revised to address these concerns. In response to this, the applicant states that the repositioning of the house on site would unbalance the overall plans for the development, including the need to provide for vehicular movements on site to the front. The appellant's house is directly to the north of the proposed house and, as stated, it is located on ground elevated approximately 1m to 1.5m above the appeal site and 14m from the proposed house. The rear elevation to the appellant's house features windows serving living rooms at ground floor and rooflights serving bathroom and bedroom areas at first floor. The proposed house would feature a pitch roof with a ridge height of 6.9m and an eaves height of 4m. Considering the difference in ground levels, the separation distance between the appellant's house and the proposed house and the modest height of the proposed house, I am satisfied that the potential for the proposed development to restrict light to the appellant's property would not be significant.

7.2.4. Having regard to the above considerations, the development would not give rise to an unacceptable impact on residential amenity and permission for the proposed development should not be refused for this reason.

7.3. Design & Visual Impact

7.3.1. There are no scenic routes or visually-vulnerable protected views overlooking this site, while the site and surrounding area does not have any conservation status. With regard to serviced infill sites, Policy P-UHOU-4 of the Development Plan encourages infill developments within settlement boundaries in promoting more compact forms of residential development. Section 12.3.2 of the Development Plan outlines that in facilitating compact settlements, infill proposals should have regard to

the character and context of the surrounding area. The appellant's house to the north and the immediate house to the south are both of the 'one and a half-storey' or dormer style house type, which is the prevailing house type in the area, albeit with older housing generally of the single-storey bungalow type. The proposed house design provides for a 'one and a half-storey' house with similar features to the house immediately to the south. The scale, height, proportions and design of the proposed house would not conflict with neighbouring houses and would be appropriate for the site. The surrounding suburban context for the proposed house is defined by low-density housing on a variety of plot sizes, where the urban grain is not well-defined and where there is a lack of a distinct rhythm to the streetscapes. The layout and positioning for the proposed house is sympathetic to the surrounding detached housing context. I consider that the introduction of a modest 'one and a half-storey' structure into this infill urban site, would not unduly impact on the character of the area, would not form an incongruous addition to the area and would accord with the provisions of the Development Plan.

- 7.3.2. In conclusion, I am satisfied that the proposed house, including design, height, scale and proportions, and the proposed site layout would not conflict with the established pattern and character of development in the area, and would accord with the relevant policies, objectives and provisions of the Development Plan. Accordingly, the proposed development should not be refused for this reason.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, including the proposed connections to environmental engineering services, the location of the site in a serviced area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that permission be granted for the proposed development, subject to conditions, for the reasons and considerations, as set out below.

10.0 Reasons and Considerations

10.1. Having regard to the 'residential use' zoning for the site, to the nature and scale of the proposed development, and to the existing pattern of development in the vicinity, it is considered that subject to compliance with the conditions below, the proposed development would not be out of character with existing development within the area, would be acceptable in terms of visual impact, would not seriously injure the residential amenities of the area or of property in the vicinity and would be in accordance with the provisions of the Sligo County Development Plan 2017-2023. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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 materials, colours and textures of all the external finishes to the proposed house shall be submitted to and agreed in writing with the Planning Authority before the commencement of construction of the house.

Reason: In the interest of the visual amenities of the area.

3. Water supply and drainage arrangements, including the 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.

4. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

5. The developer shall pay to the Planning Authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the Planning Authority that is provided or intended to be provided by or on behalf of the Authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning & Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning & Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colm McLoughlin

Planning Inspector

18th February 2019