



An
Bord
Pleanála

Inspector's Report ABP-303459-19

Development	Demolition of disused dwelling and commercial buildings and construction of 7 Houses.
Location	Ballydoogan Td, Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	18263
Applicant(s)	Martin Cadden.
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Dermot Flannery.
Observer(s)	None.
Date of Site Inspection	11 th March 2019.
Inspector	Sarah Lynch

1.0 Site Location and Description

- 1.1. The appeal site, which is largely rectangular in shape, is located to the west of Sligo town to the north of the Ballydoogan Road. The site is bounded to the north by existing dwellings along Warren Crescent, to the west by existing dwellings along Wren Road, to the east by the rear gardens of properties along Ballydoogan Road and to the south by the Ballydoogan Road.
- 1.2. The site comprises an existing commercial use nestled within a residential area. A number of buildings are present on site which include, a disused single storey dwelling and associated sheds to the south, a large 1-2 storey concrete dash commercial building to the north, a 1 ½ storey commercial building to the west and a number of steel shipping containers which are located centrally within the site.
- 1.3. A cemetery services business appears to be occupying the current commercial buildings to the north of the site. A large quantity of head stones were present within the site at the time of site inspection.
- 1.4. The site slopes downwards in a northerly direction from the main access of the Ballydoogan Road. The overall dominant use of the surrounding area is residential.

2.0 Proposed Development

- 2.1. Permission is sought for the following:
 - Demolition of the following buildings:
 - (1) Uninhabited dwelling and sheds,
 - (2) Office/hut,
 - (3) Containers,
 - (4) Courier Store and toilets,
 - (5) Accessories store/fireplace showroom/workshop building.
 - Construction of 4 no. two storey semi-detached dwellings and,
 - 3no. terrace two storey dwellings.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was granted for the proposed development subject to standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The final planners report is consistent with the decision of the planning authority.

Further information was requested and included the following:

- The three proposed entrances were considered unacceptable, further information was sought in relation to the provision of rear access to the dwellings along Ballydoogan Road.
- Clarification regarding the type and quantity of open space.
- Redesign of dwellings to front of site was requested as those proposed were considered excessive in terms of scale and height.
- Revised proposals in relation to the overall design of the dwellings.
- Improved separation distance along western boundary

Significant further information was submitted in response to all items requested, to the satisfaction of the Council. It was determined to permit the proposed 3 no. entrances onto the Ballydoogan Road.

3.2.2. Other Technical Reports

- Roads Engineer – No objections following the further information response subject to conditions.
- Environment Section – No objections subject to conditions.

3.3. Prescribed Bodies

- Irish Water – no objections subject to developer signing a connection agreement.

3.4. **Third Party Observations**

7 no. submissions were received by the Council from owners of surrounding properties in the vicinity of the appeal site in relation to the proposed development.

The issues raised can be summarised as follows:

- Loss of light.
- High density.
- Impact on traffic.
- Overlooking.
- Noise & air pollution.
- Height of development.
- Capacity of sewer to cater for development.
- Encroachment on eastern boundary.
- Boundary treatment.
- Light pollution.
- Construction hours.

4.0 **Planning History**

There is no recently recorded history pertaining to the appeal site.

5.0 **Policy and Context**

5.1. **Development Plan**

Sligo and Environs Development Plan 2010-2016

The zoning and objectives of the Sligo and Environs Development Plan 2010-2016 have been incorporated into the Sligo County Development Plan 2017-2023.

Sligo Development Plan 2017-2023

The proposed development is located within an area zoned RE – existing residential areas which seeks ‘to protect and enhance existing residential amenity. The introduction of compatible/ancillary uses, redevelopment and regeneration may be considered in these areas, as long as the dominant use remains residential. Increases in density may be considered in the case of redevelopment (depending on the site context) and regeneration of existing residential areas.

- Section 5.6.2 - Derelict houses
- Section 13.2.2 - Impact of development on its surroundings
- Section 13.3 - Residential development in urban areas
- Section 13.3.1 - Multi-unit housing schemes
- Section 13.3.6 - Distance between dwellings
- Section 13.3.7 Private Open Space
- Table 13. C - Car parking standards

Project Ireland National Planning Framework 2040

- Section 1.2 Making the vision a reality
- Section 4.5 Achieving urban infill / brownfield development

Draft Regional Spatial and Economic Strategy for the Northern and Western Regional Assembly

- RPO 13 – 40% of all new housing to be delivered within built up areas.

Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages)

- Section 5.9 – Infill Residential Development
- Section 6.10 - Density standards
- Section 7.4 - Privacy and security

5.2. Natural Heritage Designations

Cummeen Strand/Drumcliff Bay (Sligo Bay) SAC is located c. 1.3km north west of the appeal site and Cummeen Strand SPA is located c. 1.5km north west of the site. Lough Gill SAC is located c. 1.8km to the east of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity, 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

The grounds of appeal have been submitted by Dermot Flannery who resides within no. 2 Warren Crescent. This property abuts the northern boundary of the appeal site. The issues raised within the grounds of appeal can be summarised as follows:

- Destruction of existing wall which is interwoven with hedging.
- Proposed dwellings would be located 12 metres from the boundary wall.
- Loss of light and overshadowing.
- Boundary wall on south eastern side of the proposed development is retained at 3.8 metres and 3.2 metres at various, it is proposed to reduce this to 2.5 metres.

6.2. Applicant Response

- Reduction in height of wall is to stabilise appellant's wall when building at this location is being demolished.

- It is proposed to raise boundary wall with appellant to 3.5 metres and retain climbing plants.

6.3. **Planning Authority Response**

- Proposed reduction in height of boundary wall to 2.5 metres will provide for more light to properties to the north and will improve residential amenity.
- Separation distance of 25 metres is considered sufficient.

6.4. **Observations**

- None

6.5. **Further Responses**

The appellant has responded to the applicant's response to the grounds of appeal as follows:

- Wall is currently in existence and is 4.5 – 6.5 metres
- Concerns in relation to the development relate to the provision of 5 houses within 12 metres of the appellants house.
- Dwellings will reach a height of 9 metres.
- Appellants dwelling is located below appeal site.

7.0 **Assessment**

7.1. The proposed development is located in an area zoned RE – existing residential areas which seeks 'to protect and enhance existing residential amenity'. The principle of residential development within this site is acceptable subject to compliance with the relevant objectives of the County Development Plan and other relevant criteria. I have read the appeal file, all associated reports and plans and I visited the appeal site and the surrounding area.

- 7.2. I consider the proposed low-density housing development to be of an acceptable design and to be of a nature and scale which is appropriate to an infill site. Furthermore, the development exceeds the minimum standards for residential dwellings and private open space provision. I consider, therefore, that the main issues for consideration in the appeal relate to the matters raised by the appellants in addition to Appropriate Assessment and I do not consider a de Novo assessment to be necessary in this instance.
- 7.3. It is important to clarify at the outset that significant further information was requested, and revised plans were subsequently submitted and approved. The following assessment will be based on the final approved plans.
- 7.4. Having regard to the foregoing the issues pertaining to this appeal and for consideration before the Board can be summarised as follows:
- Proximity of development to dwellings along Warren Crescent.
 - Overlooking & Overshadowing
 - Height of boundary wall
 - Appropriate Assessment

Proximity of development to dwellings along Warren Crescent

- 7.5. It is contended by the appellant that the proposed development would result in the construction of 5 no. dwellings directly to the rear of his dwelling with a separation distance of 12 metres from his boundary. Whilst I acknowledge the appellants concerns in relation to the introduction of dwellings at this location where there were previously none, it is important to note that the site is an infill brownfield site within the environs of Sligo town. Such development supports the notion of compact growth which is significantly supported by the policies of the National Planning Framework in which it is an objective to deliver at least 40% of all new housing within the existing built up areas of cities. In order to deliver on the principles of compact growth a degree of flexibility must be provided for in relation to issues such as overshadowing and overlooking.
- 7.6. Section 6.10 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), 2009, requires a 22-metre separation distance between opposing above ground floor windows, however where

development relates to infill sites these guidelines provide for a degree of flexibility in relation to such standards.

- 7.7. Notwithstanding that the proposal constitutes such an infill development, the applicant proposes to provide in excess of 25 metres between opposing above ground floor windows, and as such, is providing in excess of the minimum standards required for such developments. I therefore consider the proposed separation distances provided to the north of the site to be acceptable.

Overlooking & loss of light

- 7.8. It is further contended within the grounds of appeal that the proposed development would result in an unacceptable level of overlooking and loss of light due to the height and proximity of the dwellings to the north of the site to the appellants dwelling in Warren Crescent. As mentioned above the applicant is providing 25 metres of separation between opposing above ground floor windows. Section 7.4 of the Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages), 2009 refers to an adequate separation distance of 22 metres for such development and reiterates the sentiments expressed within Section 6.10 of these guidelines in relation flexibility in instances of infill development. As aforementioned the applicant is providing for in excess of the separation distances permissible within the guidelines. I therefore do not consider that the proposed development would result in a significant or unacceptable level of overlooking within this urban site.
- 7.9. The appellant further contends that the development would result in a significant loss of light to his dwelling. As aforementioned the proposed development will be set back from the appellants boundary by c.12 metres. The existing building to the rear of the appeal site currently abuts the rear boundary of the appellants dwelling, which results in overshadowing to his rear open space. The removal of this building and the setting back of the proposed dwellings from this boundary will undoubtedly improve the current situation for the appellant and will provide for more light to enter his property.
- 7.10. Given that the proposed development will result in the removal of an existing building to the north of the appeal site and provides for a 12 metre separation from this northern boundary where currently there is none, I consider that the proposed

development will provide for improved access to light for the residents of Warren Crescent. I therefore do not consider that the proposal would exacerbate any issues in relation to loss of light or overshadowing.

Height of boundary wall & dwellings

- 7.11. It is stated within the ground of appeal that the appellant currently has a boundary wall of which forms part of the rear building to be demolished within the appeal site. It is contended that the appellant has climbing plants on this wall and objects to the removal of these plants and the reduction in height of this wall. The applicant has proposed within the response to the further information request to reduce the height of this wall to 2.5 metres, however has conceded that should the wall be required to remain in situ the applicant will do so. I consider the provision of a 2.5 metre boundary wall at this location to be acceptable and I consider that a higher wall within this urban residential setting would be out of keeping with the prevailing pattern of development in the area and would result in excessive overshadowing to these gardens. As such, if the Board is of a mind to grant permission I recommend that a condition is imposed which specifies the height of the boundary walls to be agreed in writing with the planning authority prior to the commencement of development.

Appropriate Assessment

- 7.12. Having regard to the nature of the development which is an infill development on a brownfield site, its location in a serviced urban area, and the separation distance to any 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 a European site.

Conclusion

- 7.13. In conclusion the proposed development whilst of questionable merit in terms of design provides for in excess of the minimum requirements in relation to private and public amenity space, car parking and circulation areas. The development constitutes an efficient use of brownfield land and supports the notion of compact growth as required by both the NPF and the draft RSES for the Northern and Western Assembly. The development is also in accordance with the zoning objective of the site and the policies and objectives of the Sligo County Development Plan

2017-2023 for such development. Whilst the appellant's grounds of appeal have been acknowledged I do not consider these to be of sufficient impact as to warrant a refusal of the development.

8.0 Recommendation

8.1. In the light of the above assessment I recommend that planning permission be granted subject to conditions for the following reason and considerations.

9.0 Reasons and Considerations

9.1. Having regard to the provisions of the Sligo County Development Plan 2017-2023, the existing pattern of development in the area, and the nature and scale of the proposed development, it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity. 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. Details of the materials, colours and textures of all the external finishes to the proposed buildings shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. Water supply and drainage arrangements, including the disposal and attenuation 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. Prior to the commencement of development, the applicant shall submit details of all boundary treatments for the written agreement of the planning authority.

Reason: In the interest of orderly development.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity

6. 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 and Development Act 2000, as amended. The contribution shall be paid prior to 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 and 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.

7. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance until taken in charge by the local authority of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

Reason: To ensure the satisfactory completion and maintenance of the development until taken in charge.

Sarah Lynch
Planning Inspector

24th April 2019