



An  
Bord  
Pleanála

## Inspector's Report ABP-303463-19

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<b>Development</b>	Construction of house, new entrance to house and all ancillary site works and site services
<b>Location</b>	56 Maunsells Park, Maunsells Road, Galway
<b>Planning Authority</b>	Galway City Council
<b>Planning Authority Reg. Ref.</b>	18302
<b>Applicant(s)</b>	Peter Coyne
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	John & Deirdre Daly Sinead & Fearghal Hannon
<b>Observer(s)</b>	Padraig Barrett.
<b>Date of Site Inspection</b>	27/03/2019
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

1.1. The subject site is located in the residential estate Maunsells Park, located on the western side of Galway City. The site has a stated area of 237 sq.m. and forms from the side garden of a large detached two storey house on the west side of Maunsells Park. To the south side is the public open space serving Ard Na Coille, a cul-de-sac residential development that is accessed through Maunsells Park. Residential development in Beechmount and Cedarwood and Rivendell are located to the west and south west side.

## 2.0 Proposed Development

2.1. On the 18<sup>th</sup> September 2018 planning permission was sought for the construction of a new dwelling house of 156.9sq.m. on a site adjoining 56 Maunsells Park.

2.2. A cover letter submitted with the application states that the site has been subject to a number of planning applications over the past ten years. The subject application has taken on board the Boards reason for refusal (ABP-300577-18) relating to design, appearance and roof profile.

## 3.0 Planning Authority Decision

### 3.1. Planning Authority Reports

3.1.1. **Irish Water:** The proposed development may be impinging on or around IW assets or sources from specific aspects of the development. The applicant is to confirm the exact location of the stormwater and foul sewer which appears to be crossing the North East of the site.

3.1.2. **Planning Report:** Principle of a dwelling on the subject site has been established under previous planning history. Applicant should be requested to revise the front elevation to match the eaves level of the adjoining dwelling and include a full sized first floor window. Applicant should be requested to address Irish Water issue.

### 3.2. Further Information

3.2.1. On the 6<sup>th</sup> of November 2018 the applicant was requested to:

1. revise the front elevation, and

- 2 demonstrate that the proposed development would not impinge on Irish Water assets.

3.2.2. On the 19<sup>th</sup> November 2018, the applicant responded to the request for further information stating that the front (north) elevation had been revised as requested and providing details of the foul and surface water sewers in Maunsells Park. The response stated that an undertaking would be given to Irish Water to “plate and protect” both sewers during the construction stage of the development and that none of the proposed works would interfere with existing services.

### 3.3. **Planning Authority Reports following FI**

3.3.1. **Drainage Section:** Satisfied that all is in order regarding the assets of Irish Water.

3.3.2. **Irish Water:** Applicant proposal to plat and protect is acceptable.

3.3.3. **Planning Report:** Proposed revised dwelling, including flat roof porch and zinc finish is acceptable. Recommendation to grant permission.

### 3.4. **Decision of the Planning Authority**

3.4.1. On the 13<sup>th</sup> December 2018 the Planning Authority issued notification of their intention to GRANT permission subject to 11 no. standard conditions.

### 3.5. **Third Party Observations**

3.5.1. A number of objections to the proposed development were submitted to the Planning Authority on original submission and following the request for further information. The issues raised are similar to those raised in the third-party appeals and are discussed in greater detail in section 6 below.

## 4.0 **Planning History**

4.1.1. **ABP-300577-18:** Planning permission was refused for the construction of a dwelling house to the side of the subject site at 56 Maunsells Park. The Boards reason for refusal was as follows:

“The site of the proposed development, which is located within “*Established Suburbs*” according to the Galway City Development Plan, 2017-2023, is in a mature residential area in Taylors Hill and overlooks a centrally located parkland surrounded by established residential development. It is considered that the proposed

development, by reason of its significant massing and the prominent steep roof profile between the ridge to eaves especially to the south, overlooking the parkland below, and, in addition, by reason of the extent and distribution of fenestration, especially on the side facing the parkland, would be visually obtrusive and conspicuous, dominant and overbearing and would seriously injure the visual amenities of views across and from the parkland setting. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area”.

- 4.1.2. **Reg. Ref 08/132:** Permission was granted for a house, new entrance and associated site development and services work on the application site. An extension to the duration of the grant of permission was authorised under Reg. Ref. 13/56. Development on foot of the grant of permission under Reg. Ref. 08/132 was not commenced. Permission for the formation of the site by way of subdivision of the gardens of the existing dwelling was granted under Reg. Ref. 08/109.
- 4.1.3. **PL 61. 230589 (Reg. Ref. 08/378):** Permission was refused by the Board for alterations to and changes to the permitted development to increasing the floor level from 109 to 140sq.m. and including two additional attic level bedrooms, a raised ridge level with Velux and gable windows at attic level.
- 4.1.4. Prior successful applications of a minor nature relating to the existing dwelling under Reg. Ref. 07/756, Reg. Ref. 01/212 and Reg. Ref. 92/241 are noted in the planning officer report.

## 5.0 Policy and Context

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

- 5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site is in a location subject to the zoning objective: “R: *To provide for residential development and for associated support development, which ensure protection of existing residential amenity and contributes to sustainable residential neighbourhoods.*”

- 5.1.2. The location also comes within the “*Established Suburbs*” in which, according to section 2.6 infill development should have regard to the existing fabric and layout and to the scale and proportions of buildings, building lines, massing and heights.
- 5.1.3. Section 8.7 provides for the achievement of good urban design.
- 5.1.4. Development Management standards and guidance are set out in chapter 11.

## 5.2. **Natural Heritage Designations**

- 5.2.1. The subject site is less than 1km from Galway Bay SAC and SPA.

## 5.3. **EIA Screening**

- 5.3.1. Having regard to nature of the development comprising the construction of a domestic development in a suburban area, it is considered that 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**

#### 6.2. **John & Deirdre Daly**

- 6.2.1. An agent on behalf of the residents of 1 Ard na Coille, an estate adjoining the subject site, has appealed the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:
  - The subject site is narrow – 7.538m at the rear and 7.587m at the front. The proposed dwelling of 5.3m and 156.9sq.m. and 1 m side passage.
  - Section 11.3.1(f) requires a minimum 1.5m between gables. The proposed dwelling is 0.9m from the southern boundary and 0.94m on the northern side adjoining the existing house.
  - Given the narrowness of the proposed dwelling, side fenestration provides light to the living room, dining room, hall, porch, bedrooms and study. The narrowness of the side passage means the windows are very close to the boundary with the public open space.

- The narrowness of the passageway may require more light in future, restricting the existing tree line. The open space is very important to the residents. It is submitted it will be overlooked by the proposed dwelling.
- The Inspector assessing ABP-300577-18 stated that it would be inappropriate to rely on the trees as an ameliorative measure. The Inspector noted that the site had the capacity to accept a modest, low profile detached dwelling.
- Notwithstanding the long planning history, there is no extant permission on the site.
- The site is too narrow and too prominent to accept the proposed house which will have a serious impact on the adjoining public open space. This was acknowledged by the Board in the planning history.
- The subject proposal is larger than the previously refused dwellings.
- The response of Irish Water to the queries raised regarding the location of piped services is unsatisfactory. It is submitted that it may not be possible to avoid the services. The exact location of the services must be determined.
- There is doubt about the ownership of the site. There is no record of the transfer of the land to the owner of no. 56.
- The Board is requested to refuse permission.

### 6.3. **Sinead & Fearghal Hannon**

6.3.1. The residents of 8 Ard na Coille have appealed the decision of the Planning Authority to grant permission. The grounds of the appeal can be summarised as follows:

- No. 56 Maunsells Park is currently rented as an AirBnB.
- The purpose of the proposed development is not clear. It is submitted that the two dwellings are unlikely to be family homes but will be possible let out on a temporary basis.
- Six cars are often parked at no. 56 which leaves little room for larger vehicles such as refuse and fire services.

- There is a safety risk to children crossing the road and playing on the adjacent green.
- The Council's suggestion that the appellants should notify Enforcement if something is wrong is not accepted. It is not the job of neighbours to police development.
- On the subject site of 234sq.m., the proposed development has a plot ratio of 0.67:1. The limit in the Galway City Development Plan is 0.46:1. The proposed development is bigger than the two previously refused dwellings.
- Dwellings in the area are all two-storey. The proposed three storey house with a narrow front faces into the green. While one window of no. 56 faces the green, the proposed dwelling has three windows. It is submitted that these will be blocked by the existing tree line which will subsequently be removed.
- The proposed three-storey dwelling will require excavation. As the wider area is a former quarry, the rock breaking will be a considerable process.
- The proposed dwelling will appear out of place and unique among the 68 no. existing homes.
- It is submitted that the frequency of planning applications on the subject may have contributed to a lack of awareness of the current application.
- The Board is requested to refuse permission for the proposed development.

#### 6.4. Applicant Response

- There is a long planning history on the site. Both the Board and the City Council refused permission recently on the grounds of design, appearance, roof profile, mass & form and out-of-character design (ref. ABP-300577-18 refers).
- The currently proposed dwelling has taken on board the reasons for refusal and the subject dwelling has regard to the scale and proportions of existing buildings, building lines, massing and height of the adjoining street. The subject dwelling establishes its own identity with zinc finishes. The ridge height is the same as the adjoining house. The fenestrational patterns on all elevations match those of the adjoining house.

- The City Council have accepted that the proposed dwelling accords with section 2.7 and 8.7 of the Galway City Development Plan regarding infill development.
- The proposed development complies with the requirements for private open space, car parking and overlooking.
- The proposed dwelling will be the applicant's family home, adjoining his original family home at no. 56.
- The Board Inspector assessing ABP-300577-18 accepted that a single dwelling would not cause traffic hazard. The Board Inspector did not raise a concern about a 2.5 storey semi-basement dwelling. She noted that there is no objection to the footprint of the proposed dwelling. The subject proposal addresses the Board's concerns.
- The proposed 2.5 storey dwelling was revised to address the concerns of Galway City Council. The proposed ground and first floor windows will increase surveillance of the open space.
- The proposed infill dwelling does not have to comply with section 11.3.1(f) of the development plan regarding side passageways of 1.5m width.
- The proposed screening will work well with the revised roof and fenestration design.
- None of the previous refusals on site were due to floor area or density on site.
- The applicant has demonstrated to the satisfaction of the City Council and Irish Water that the location of public services will not impinge on site development. While sewers pass through the front corner of the site, they are not located near or under the proposed building.
- There are no title issues. The subject site has been in the full ownership of the Coyne family since 1995.
- The Board is requested to grant permission.



## 6.5. Planning Authority Response

- The stated density of 0.67:1 exceeds the normal 0.46:1 recommendation of the Galway City Development Plan 2017-2023, this is aimed at new larger housing developments rather than individual infill sites.
- Use of the proposed dwelling as a short-term let will be subject to June 2019 Government Guidance on same.
- Questions regarding the title of the land are outside the scope of the planning process.
- Although the proposed dwelling is larger than the previously refused proposal, it is more in keeping with Maunsells Park and Ard na Coille.
- The proposed development is considered to be in keeping with the City Development Plan and the proper planning and development of the area.

## 6.6. Observations

### **Padraig Barrett, 46 Maunsells Park**

- In the 1980's the sites at 43-57 Maunsells Park were purchased by a local developer who subsequently built houses on 8 no. of the sites, including the subject site. The remaining 7 no. empty sites were sold to individual buyers. Piping was laid to the south of no. 56 on a narrow piece of land.
- In 1994 Ard na Coille was developed. Around that time the applicant's parents subsumed the above mentioned narrow piece of land into the plot of no. 56. Online mapping supports the fact that this plot was not part of no. 56 originally. The Board is requested to ascertain ownership details of the site.
- Basement construction could have a serious impact on water infrastructure in the surrounding area.
- The proposed narrow development would be out of place and would negatively impact the visual amenity of the area.
- The Board is requested to refuse permission.

## 7.0 Assessment

- 7.1.1. I have examined the file and the planning history, considered national and local policies and guidance, the submissions of all parties and inspected the site. I have assessed the proposed development and I am satisfied that the single issue of the subject application is the principle of development.

### 7.2. Principle of Development

- 7.2.1. Noting that the Boards previous reason for refusal related solely to the significant massing and the prominent steep roof profile between the ridge to eaves especially to the south, the fenestrational profile, especially on the side facing the parkland, and the resultant impact on visual amenities of the area, it is considered that the principle of an infill dwelling on the subject site has been accepted. I propose to accept the Direction of the Board as a starting point from which to assess the proposed development.
- 7.2.2. The ownership of the subject site is a civil matter, one which is not within the remit of the Board. It is a matter for resolution between the parties. I note that the issue of the location of public services has been addressed to the satisfaction of Irish Water and the City Council and should not be considered to be an obstacle to development of the site. The future use of the proposed dwelling by the applicant or as a short-term let is subject to due process by the Planning Authority.
- 7.2.3. The previously proposed dwelling (ABP-300577-18) had a floor area of 150sq.m. with a large zinc roof finish on the attic level. The effect was considered by the Board to create a significant mass which would injure the visual amenity of the area. The currently proposed dwelling has a traditional slate roof, mirroring the profile of the adjoining house at no. 56. Two dormers on the southern elevation, facing the open space, allow the proposed attic level accommodation to be illuminated without creating a significant bulk and mass at roof level. The proposed rood profile is in keeping with the pattern of development in the area.
- 7.2.4. Likewise at basement and ground level, the fenestrational pattern on the southern elevation has been re-designed to follow the pattern of dwellings in the area.
- 7.2.5. I am satisfied that the proposed re-designed dwelling will not detract from the adjoining parkland, nor provide an incongruous feature in the suburban housing

estate. The subject dwelling will clearly read as an infill-development, however, the visual impact will be minimal. The scale of the proposed dwelling is in keeping with the adjoining dwellings, will not overlook the surrounding residential properties and will provide a degree of passive surveillance of the adjoining open space.

### 7.3. **Appropriate Assessment**

- 7.3.1. Having regard to the nature and scale of the proposed development in a built-up suburban 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.

## 8.0 **Recommendation**

- 8.1.1. It is recommended that permission be granted subject to conditions for the reasons and considerations set out below.

## 9.0 **Reasons and Considerations**

- 9.1 Having regard to the zoning objective of the area, the design, layout and scale of the proposed development and the pattern of development in the area, it is considered that, subject to compliance with conditions below, the development would not seriously injure the visual amenities of the area or residential amenity of property in the vicinity. The proposed development for which permission is sought 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, as amended by the further plans and particulars submitted on the 19<sup>th</sup> November 2018, except as may otherwise be required in order to comply with the following conditions.

**Reason:** In the interest of clarity.

2 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 and to ensure a proper standard of development.

3 Site development and building works shall be carried out only between the hours of 0800 to 1800 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 amenities of property in the vicinity.

4 All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

5 The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street(s) are kept clear of debris, soil and other material and if the need arises for cleaning works to be carried out on the adjoining public roads, the said cleaning works shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining roadways are kept in a clean and safe condition during construction works in the interests of orderly development

6 Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Classes 1, 3 and 5 of Schedule

2, Part 1 to those Regulations shall take place within the curtilage of the house without a prior grant of planning permission.

**Reason:** In the interest of orderly development, and to allow the planning authority to assess the impact of any such development on the amenities of the area through the statutory planning process

7. 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. 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 the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 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.

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Gillian Kane  
Senior Planning Inspector

16 April 2019

