



An  
Bord  
Pleanála

## Inspector's Report ABP-304415-19

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<b>Development</b>	Construct detached house and ancillary site works.
<b>Location</b>	No. 4 Father Angelus Park, Carrowbeg, Westport, Co. Mayo.
<b>Planning Authority</b>	Mayo County Council
<b>Planning Authority Reg. Ref.</b>	P19/104
<b>Applicant(s)</b>	Gibbons Building and Civil Engineering Limited.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse permission (2 no. reasons)
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Gibbons Building and Civil Engineering Limited
<b>Observer(s)</b>	Noel, Gerard and Lisa McNamara Residents of Fr. Angelus Park (Cara Higgins and Others)
<b>Date of Site Inspection</b>	03/07/2019
<b>Inspector</b>	Conor McGrath

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in Father Angelus Park, Westport, a relatively low-density 1950's residential development located on the northeastern side of the town, approx. 500m from the town centre. It occupies a relatively elevated position with views southwest to Croagh Patrick. The N5 Castlebar Road runs below and to the south of the estate. Father Angelus Park is generally comprised of long terraces of houses set around areas of open space. Houses are not provided with off-street car parking. While individual house design is not noteworthy, the development is characterised by consistency of design and layout.
- 1.2. The appeal site, with a stated area of approx. 400-sq.m., comprises part of the original rear private open space of no. 4 Father Angelus Park and an area of adjoining non-private space associated with that dwelling. These areas were originally divided by a block boundary wall. That wall has been removed and the site is currently surfaced with hardcore and is bounded by a post and rail fence. Ground levels are currently approx. 1.5 - 2m over finished floor levels of the terrace to the west (no.'s 1-4), similar to the rear garden of no. 3 to the west.

No. 4 Father Angelus Park, *Táim Lodge*, has recently been refurbished and extended and is currently in use for short-term letting / tourist accommodation (AirBnB). This house is provided with two off-street parking spaces and a small rear yard area.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a new detached three-bedroom, two-storey house on the site (144.6-sq.m.). The dwelling is aligned with the terrace of houses to the north but steps forward of the building line, particularly at ground floor level. The house is long in form, roughly equivalent to two of the adjoining adjoining terraced units. Approx. 110-sq.m. of open space is provided to the rear of the house at a depth of 4.5 - 5.5m. Additional open space on each side of the house is also proposed. Three off-street parking spaces are indicated on the

plans. An existing sewer line running diagonally across the site is to be rerouted to facilitate the development.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

The planning authority decided to refuse permission for the proposed development for two reasons as follows;

1. The layout and inadequacy of the private open space provided would be injurious to residential amenity and would depreciate the value of property in the vicinity.
2. The proposed development on this prominent location would detract from the character of this residential development , would impact on visual and residential amenities, and would depreciate the value of property in the vicinity.

#### **3.2. Planning Authority Reports**

##### **3.2.1. Planning Reports**

The planners report reflects the planning authority decision to refuse permission. In particular it notes

- The private ownership of the site. The development would not set a precedent for the development of other public open spaces within the estate.
- The site formed part of the private open space of no. 4 and was always in private ownership, although it appeared as public open space within the estate.
- No. 4 currently has little functioning open space.
- House design prevents overlooking at first floor level but may give rise to overlooking at ground level.
- The dwelling would not maintain the front building line and is at odds with the established norm of the estate.

#### **3.3. Other Technical Reports**

**Road Design:** FI requested as the site layout plan does not show the location of the proposed access to the house or on-site parking for at least 2 cars.

**National Roads Office:** No issues for the National Road System.

### 3.4. Third Party Submissions

The planning authority received a number of submissions on the application generally raising the following issues:

- Impact on the character and amenities of the estate.
- Traffic and parking impacts.
- Over-development of the site.
- Residential versus commercial / tourism use of these lands.
- Impact on privacy of adjoining residential properties.
- Construction impacts.
- Impact on / loss of an existing green space.
- Non-compliance with development plan policies and objectives.

## 4.0 Planning History

**PA ref. P17/95      ABP ref. PL16.248474**

The planning authority refused permission for the construction of two houses in the rear garden of no. 4 Father Angelus Park, and a two-storey side and rear extension and off-street parking to No. 4,.

On appeal, the Board decided to make a split decision, to:

- Grant permission for two-storey side and rear extensions to no. 4, internal alterations and provision of two off-street parking spaces.
- Refuse permission for the construction of a pair of two-storey semi-detached dwellings on the subject appeal site on the following basis:
  1. Having regard to the character and pattern of development in the vicinity, the proposal would represent overdevelopment of the site and would seriously

injure the residential amenities of the area by reason of overlooking and loss of privacy for adjoining residents

2. Substandard form of development due to the layout and design of the houses with inadequate provision of garden space.

## 5.0 Policy and Context

### 5.1. Development Plan

#### **Westport Town and Environs Development Plan 2010-2016**

This remains the statutory Plan for the town. The appeal site is zoned 'Residential Phase 1 (A1 - High Density)', 'to protect, improve and develop residential areas and to provide for facilities and amenities incidental to those residential areas, where appropriate'. Housing is 'normally permitted' on lands zoned 'A1 Residential Phase 1', up to a density of 25 residential units per hectare. Densities will also be determined by site conditions, services available and standards of design and layout.

Open Space and Recreational Facilities policy and objectives include:

- OO-01 It is an objective to ensure that ..... no development, other than that for amenity purposes associated with an existing residential development, will be permitted on open spaces that are part of an existing residential development.
- OO-03 - It is an objective to rationalise unused incidental open spaces, subject to compliance with OO-01;

Section 7.3 states that building lines should be set by the context of the proposed development. Off-street car parking is required at a rate of 2 space per unit in towns.

Section 7.10 provides standards for residential developments including densities, layout and design and amenity space;

- Layouts shall be designed to minimise the degree of overlooking onto back and side gardens from adjoining dwellings or gardens.

- Private Amenity Space should be not less than 100-sq.m. for 3 - 5-bedroom houses, normally provided behind the front building line.

New houses in the town shall be located on the established building line to maintain the existing street / townscape. In housing estates the building line shall be at least 6m from the inside edge of the public footpath along the estate road. Building lines should be varied in large estates in order to avoid monotony and rigidity.

## 5.2. National Guidance

### **Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns and Villages) (May 2009)**

Section 5.9 considers Inner suburban / infill development. In residential areas whose character is established by their density or architectural form, a balance has to be struck between the protection of the amenities and privacy of adjoining dwellings, protection of established character and the need to provide residential infill.

For edge of centre sites, densities to a range of 20-35 dwellings per hectare will be appropriate including a wide variety of housing types.

Section 7.4 notes that there should be adequate separation at the rear of dwellings (traditionally about 22 m between 2-storey dwellings) however, such rules should be applied flexibly - careful design can prevent overlooking even with shorter back-to-back distances. Section 7.8 notes that all houses should have an area of private open space behind the building line.

## 5.3. Natural Heritage Designations

There are no designated sites in the vicinity of the appeal site.

## 5.4. 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 / the absence of any connectivity to any sensitive location, there is no real likelihood of significant

effects on the environment arising from the proposed development. The need for environment 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**

Gibbons Building and Civil Engineering make the following points in the first party appeal against the decision of the planning authority to refuse permission for the proposed development:

- The application addresses previous reasons for refusal on the site and the planning authority assessment was inaccurate.
- The proposed dwelling, designed to eliminate overlooking, and provided with adequate private open space would not be injurious to residential amenity.
- The site is in private ownership. Other open spaces within the estate are in public ownership.
- Although this is an infill development, the proposal meets the development plan requirements for a greenfield development.
- Adequate off-street parking is provided.
- The planning authority assessment was unduly influenced by submissions on the file.
- Following from pre-application discussions, the applicants had anticipated a request for further information. The planning authority issued a straight refusal of permission in this case instead.
- The land is suitably zoned. The advice of an estate agent / valuer was sought (copied to the appeal), which finds that the development will have a positive, rather than negative, effect on adjoining property values.
- The is the minimum feasible development on this site and should be permitted given the overall shortage of housing nationally.
- Full regard should be had to the provisions of the development plan for the area in terms of zoning, density and garden size.



## 6.2. Planning Authority Response

- No response to the grounds of appeal has been received from the planning authority.

## 6.3. Observations

6.3.1 Two observations were received on the appeal from:

- Noel, Gerard and Lisa McNamara and
- Residents of Fr. Angelus Park (Cara Higgins and Others)

The issues raised in these observations are summarised together below:

- The estate is part of the built heritage of the town. The layout and green spaces which contribute to its successful design would be negatively impacted by the proposed development.
- The design, layout and scale of the dwelling is out of character with the estate and given the prominence of the site would impact on views from the estate.
- The photomontages and aerial views do not appear accurate particularly with regard to building line and do not illustrate the street elevation.
- This is not an infill site as defined in the County Development Plan.
- It would set an undesirable precedent for similar development.
- Development of this open space is not appropriate and will result in an overall reduction in public open space.
- This space was maintained by the Local authority and available for residents use since the estate was built.
- Development within the green space was restricted by covenants attaching to the previous purchase / sale of this site.
- Neither zoning nor ownership gives a right to develop lands.
- There will be significant loss of amenity space to no. 4 and proposed rear garden depth of the new dwelling is inadequate.
- Overshadowing and overlooking of adjoining properties will impact on adjoining property values.
- Parking provision in the estate is already deficient. There is inadequate parking for no. 4 and the unauthorised commercial use thereof.

- Houses in the estate do not have off-street car parking. Proposed parking spaces which cross the public footpath would create a safety issue.
- The development will contribute to traffic safety issues at the N5 junction.
- The surfacing and removal and replacement of boundary walls on the site was carried out without permission.
- Previously refusals on this site remain applicable. The planning authority refusal in this case has not been addressed.
- Permission for no. 4 was granted on the basis of use as a private residence and no. 4 is also not in compliance with aspects of that permission.
- A warning letter has issued in respect of the use of no. 4.
- Suggestion of political influence on the PA decision has no basis.
- This development is not justified as there is no shortage of housing units in the town and there are vacant units in this estate.
- Appeal statements on property value impacts are not accepted.
- Development is contrary to policies and objectives of the development plan for the area.

## 7.0 Assessment

It is proposed to consider the appeal under the following broad headings:

- Land use and development principle.
- Design and layout
- Residential amenity
- Roads and Traffic
- Other matters arising.

### 7.1. Land use and development principle.

The subject site is zoned for residential use in the applicable development plan for the area. An issue has been raised in this and in previous appeal cases in relation to the use of part of the site as public open space. Notwithstanding such questions, the entirety of the appeal site is zoned Residential A1. Similarly, the lands are not subject to any planning condition restricting use to public open space. In this regard,

the proposed development is in accordance with the land use zoning objectives for the site and is regarded as acceptable in principle, subject to considerations of design and layout.

Within this land use zone densities of 25/ha are provided for in the plan subject to site conditions, services and design and layout. In conjunction with the site of no. 4, the proposed development would provide for approx. 29 units per hectare. In the context of the surrounding pattern and low densities of development, however, it is not considered that this infill development would result in a material change to overall densities in this area. The development should more appropriately be assessed on the basis of design and residential amenity rather than a quantitative measure of densities.

## 7.2. Design and layout

I note the previous appeal on the site (PL16.248474) and the refusal of permission for two houses on the site. The current development now proposes a single dwelling on the site in order to address the previous reasons for refusal.

While the appeal site has a stated area of approx. 400-sq.m., there are constraints on the site such that the area which is available for development is limited. The floorarea of the proposed three-bed dwelling is relatively large in the context of surrounding houses, however, I consider that the internal layout does not maximise use of the space.

In elevation, the design of the proposed dwelling is not considered to be unacceptable or out of character with the surrounding pattern of development. Concerns are raised however, with regard to the projections to the front of the main block of the house particularly at ground floor level. At first floor level, the house is set forward of the adjoining northeastern building line by approx. 1m. At ground floor level, however, the house projects approx. 2.8m and 4.8m forward of the building line at the northeastern and southwestern corners respectively. Having regard to

this projection, the prominent position of the site and ground levels on the approach from the southwest, I consider that this would constitute an incongruous feature which would be out of character with the surrounding pattern of development in the estate. As identified in the previous inspector's report on this site, I consider that a slight projection forward of the building line could be accommodated on the site, however, current proposals are considered to be excessive in this regard.

### 7.3. Residential amenity

The appeal site comprises the original rear private open space of no. 4 Father Angelus Park, which was approx. 30m long, along with an area which lay on the public side of the wall bounding that private open space. It is understood from correspondence on the file that this is in private ownership, however, the design of the estate whereby this area was excluded from the enclosed private residential open space and maintained free from development was in line with the overall design and character of the estate. Ownership of this area in this context does not therefore in itself render the land suitable for development.

The proposed dwelling is provided with rear (110-sq.m.) and side (49.1-sq.m.) areas of private open space, which would achieve compliance with the development plan requirement, however, this is achieved at the expense of the residential amenities of no. 4. Rear garden depth is 4.5 - 5.5m however, design at first floor level would obviate overlooking of rear gardens to the west, while the proposed boundary wall would address overlooking at ground floor level. I do not consider the reduced rear garden depths to be unacceptable in this context.

The permission granted under PL19.245474 provided for a residential extension to no. 4, while two houses proposed as part of that development were refused permission. The permission granted did not provide for the subdivision of the site of no. 4, nor for the severance of private open space from that dwelling, such that the subject site remains part of the private residential amenity space associated with no. 4.

The terrace of houses to the west comprising no.'s 1 – 4 Father Angelus Park are set below the level of their rear gardens. The proposed development would incorporate almost the entire private open space for no. 4 into the appeal site. The refurbished and extended no. 4 is provided only with a minimal yard / amenity area to the rear which would provide inadequate levels of residential amenity for that house which continues to be assessed as a private residential property. The proposed development would therefore result in a substandard form of development due to the inadequate provision of private open space for adjoining residential properties.

#### **7.4. Roads and Traffic**

The proposed development provides three off-street car parking spaces on the site, in excess of development plan requirements. I note that observers have raised issues with current parking demands in the estate, particularly associated with the short-term letting use of no. 4 which appears to generate additional parking demands. Notwithstanding any adjoining commercial use, the provision of two car parking spaces for this single residential unit would be sufficient for this location. Any additional parking provision which might serve the adjoining commercial use is not appropriate and should be omitted. I do not consider that particular safety issues arise from such off-street parking.

There are two entrances to Father Angelus Park from the N5, at its northeastern and southwestern ends. The southern junction, located on a sharp bend on the main road is deficient, however, having regard to the scale of development proposed, the urban location of the site and existing movements through this junction, I do not consider that this development would result in any material change or increase in turning movements at this location. I note that the planning authority roads report did not raise any objections to the development in this regard.

#### **7.5. Other matters arising.**

The proposed development includes the re-routing of an existing sewer which serves adjoining houses to the north. The planning authority have not raised any objection

to these works either in this, or in the previous application on the site. Subject to compliance with the requirements of the planning authority for such works, I do not consider that this aspect of the development would be unacceptable. Full details of such works would require agreement and appropriate securities prior to the commencement of any works on the site.

While submissions on the file raise on-going questions relating to the ownership and use of part of this site, these appear to constitute a civil matter and I do not consider that there are ground for rejection of the application on this basis.

Submissions on the file refer to the unauthorised use of no. 4 (Táin Lodge) and associated enforcement action by the planning authority. This matter remains outside the remit of this report, which considers the use of no. 4 as a single residential unit in line with the permission granted under PL16.248474 and the provisions of the development plan in relation thereto.

## **8.0 Appropriate Assessment - Screening**

8.1 There are no designated sites in the vicinity of the appeal site. The closest site is the Clew Bay Complex SAC, approx. 1.9km west of the appeal site. The scale of development proposed, comprising the construction of a single dwelling within a serviced urban area, is limited and there are no direct pathways between the appeal site and this European site.

8.2 It is reasonable to conclude on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, either individually or in combination with other plans or projects would not be likely to have a significant effect on European Site (no. 001482), or any other

European site, in view of the site's conservation objectives, and a stage 2 appropriate assessment (and submission of a NIS) is not therefore required.

## **9.0 Recommendation**

- 9.1. I consider that the site could accommodate development of an appropriate design, scale and layout, which would reflect the surrounding pattern of development while maintaining existing residential amenities. This would likely require flexibility in the requirements for rear private open space, however this would be beyond the scope of this appeal.
- 9.2. Having regard to the foregoing, it is recommended that permission be refused for the development proposed in this instance for the reasons and considerations set out below.

## **10.0 Reasons and Considerations**

1. The proposed development would significantly reduce the private open space associated with the No. 4 Father Angelus Park such that it would be seriously injurious to the residential amenities of that property and result in a poor standard of residential amenity for occupants thereof. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the constrained nature of the site, its prominent location within this residential development and the established pattern of development in the surrounding area, it is considered that the proposed development by reason of its scale, form and building line would constitute a visually obtrusive feature on the streetscape and would be out of character with development in the vicinity. The proposed development would, therefore, seriously injure the amenities of

the area and would be contrary to the proper planning and sustainable development of the area.

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Conor McGrath  
Planning Inspector

10/07/2019