



An
Bord
Pleanála

Inspector's Report

ABP-304986-19

Development	A single storey extension (granny flat)
Location	No. 28 The Oaks, Castlebar, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	19115
Applicant(s)	Philip and Deirdre Prendergast.
Type of Application	Permission
Planning Authority Decision	Grant with Conditions
Type of Appeal	Third Party
Appellant(s)	Annette Moran
Observer(s)	None.
Date of Site Inspection	23 rd October 2019.
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site relates to a detached two storey house in a cul-de sac in The Oaks housing development off the Turlough Road north east of Castlebar town centre.
- 1.2. The road and houses are on a distinctive slope. The site rises from the road level at around 40mOD and towards the back of the site to about 44m before rising steeply to 47mOD where retaining walls are used. The house is lower than the neighbouring house to the west and higher than the house to the east.
- 1.3. The house is part two-storey and part single storey on the western side and is centrally sited with a couple of metres set back on each side. The site is diamond shaped. It narrows to the front and fans out to the rear with a setback range of 3m-6.5m from the western boundary and 2.6m-5.4m from the eastern boundary.
- 1.4. There is an existing oil tank along the western boundary.
- 1.5. In addition to my site inspection photographs, there are useful photographs submitted as part of further information and are in the pouch at the back of the file.

2.0 Proposed Development

- 2.1. It is proposed to construct a single storey extension of 78sq.m. to provide an independently accessed one bed apartment ('granny flat') with ensuite and office with wc. It is proposed to construct to the side of the property with interconnecting access and up to and along the western boundary over a distance of 8.6m. The eastern side extends over 9m. It is irregularly shaped and extends to over 12.5m in depth at its deepest.

3.0 Planning Authority Decision

3.1. Decision

Grant of permission subject to 5 conditions. Condition 2 states that no part of the western boundary shall be demolished without full legal entitlement or consent established to do so. In the event of establishing such entitlement further details are

required for agreement. Conditions 3 restricts use – excludes leasing etc and specifically tourist use without permission.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further information was requested regarding, amount of private open area, works to western boundary wall, location of oil tank, paving details.
- Having regard to the provision of the plan and submissions, the design is considered acceptable. In this regard it is noted that the profile set back and material and finished make it relatively inconspicuous.
- An open type patio adjacent to the boundary wall is omitted in revised drawings
- Overlooking of flat roof windows is accepted to not constitute an issue.
- It is noted that it comprises a solid wall along western boundary with no openings.
- The open space orientation is away from the western boundary.

3.3. Third Party Observations

The appellants objected in accordance with grounds of appeal.

4.0 Planning History

PD2613 refers to original permission for existing development.

5.0 Policy Context

5.1. Development Plan

Castlebar and Environs Development Plan 2008-2014 as varied and extended applies. Section 14.7.2 refers to granny flats. The existing density of development and whether or not the site is adequate to accommodate a second dwelling unit. The floor area shall not normally exceed 25% of the existing house.

5.2. **Natural Heritage Designations**

Not relevant

5.3. **EIA Screening**

5.4. Having regard to the existing development on site, 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. An appeal has been lodged by Lally Chartered Engineers on behalf of the neighbour Annette Moran, 27 the Oaks. A letter sets out the grounds of the appeal and appends the letter of objection to the planning authority. The issues refer to:

- The proposed development relies on the demolition and rebuilding of a party boundary wall for which no permission has been given by the adjacent owner. Condition 1 and 2 cannot be complied with.
- Concerned about proximity of extension boundary and would prefer if it were set back from the boundary and potential for overlooking windows omitted.

6.2. **Applicant Response**

None received

6.3. **Planning Authority Response**

No further comments

7.0 **Assessment**

7.1. There is no dispute regarding the principle of a granny flat and office to the side of this detached suburban dwelling. The neighbours however to the west are opposed

to the construction of the extension up to and including a substantial section of the shared boundary wall. While there is little elaboration in the grounds submitted, there are two aspects to the objection; encroachment of property by reason of proximity up to and including the boundary and the consequent loss of amenity and privacy. A setback from the boundary would be preferred.

- 7.2. The applicant confirmed in further information that it is proposed to rebuild the boundary wall and the appellant has confirmed in the appeal that no consent is forthcoming. The planning authority has made permission conditional on legal entitlement and in the event of such, further details are required for agreement. In the first instance planning permission does not override private property rights and so planning permission does not entitle the applicant to carry out works on land in which the applicant does not have sufficient legal interest. In the absence of agreement, at the very least, the proposed development should be constructed inside the boundary wall and a condition to this effect can address this matter. However, aside from the legal issue of consent for such development along a party boundary, there are issues of amenity. The proposal to replace 8.86m of the boundary wall with a higher wall is I consider excessively intrusive on the neighbouring property with or without consent. While I accept that the orientation will not be significant in terms of loss of light it could be quite overbearing in this low-density development and having regard to the high boundary already enclosing the site to the north due to higher ground of the house backing onto number 27.
- 7.3. The proposal is quite large and there is I consider an opportunity to reduce the depth and scale of development while still providing for independent living and an office. A 2m reduction in the depth as measured from the proposed rear building line would allow for partial retention of the rear garden side boundary wall. A moderate stepping forward of the office would allow for a larger single bathroom rather than a separate toilet and ensuite.
- 7.4. The proposed office window is at ground level and can only overlook the front and the public realm of neighbouring property and only at an oblique angle. There are no other windows that would give rise to overlooking mutual or otherwise, in fact, the raised wall will enhance privacy. I do not consider loss of privacy, by reason of overlooking, is grounds for refusal or modification.

7.5. Accordingly, while I do not consider the grounds of appeal constitute a basis for refusal, however, I do consider the overbearing impact of the almost 9m deep extension along the boundary by itself and in conjunction with the existing high level northern boundary merits a measure of mitigation in order to protect the character and amenity of the neighbouring dwelling in this low-density suburban development.

8.0 **Appropriate Assessment**

8.1. Having regard to the minor nature of the proposed development and to the location of the site in a serviced urban 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. Having regard to the foregoing I recommend that permission be granted based on the following reason and considerations and subject to conditions.

10.0 **Reasons and Considerations**

Having regard to the scale, nature of the proposed development and to the pattern of development in the vicinity, 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 property in the and would be in accordance with the provisions for ancillary family accommodation in granny flats, as set out in the Castlebar and Environs Development Plan 2008- 2014 as varied and extended. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application and as amended by further information lodged on 20th June 2019, 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 proposed development shall be amended as follows:
 - (a) The proposed extension shall be constructed inside the boundary wall with no. 27 to the west.
 - (b) The proposed extension shall be reduced in depth by 2m as measured from the existing rear building line. (The 9.25m wall shall be reduced to 7.25m and the 8.895m shall be reduced to 6.895m. The front elevation may be stepped forward by not more than 1.0m.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of visual and residential amenity.

3. The proposed granny flat shall be used for purposes ancillary to the main dwelling only. It shall be occupied solely by a member(s) of the immediate family of the occupier of the main dwelling. It shall not be sold or let independently of the main house and, when no longer required for use as a granny flat, shall revert to use for purposes incidental to the enjoyment of the dwelling house.

Reason: In the interest of clarity and residential amenity.

4. The proposed office shall be used for purposes ancillary to the main dwelling only. It shall not be sold or let independently of the main house

Reason: In the interest of clarity and residential amenity.

5. The external finishes of the proposed development shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity

6. There shall be no subdivision of the private amenity space.

Reason: In the interest of residential amenity.

Suzanne Kehely
Senior Planning Inspector
4th November 2019