



An
Bord
Pleanála

Inspector's Report ABP-305182-19

Development	Construction of extension and renovation of house.
Location	77 Dangan Heights, Newcastle, Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	19101
Applicant(s)	Frankie & Leonie Keane
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Frankie & Leonie Keane
Date of Site Inspection	11 th October 2019
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal, site, which has a stated area of 0.0262 hectares, is located within the housing development of Dangan Heights to the north west of Galway City. The appeal site is occupied by a two-storey semi-detached dwelling. Immediately to the south is no. 78, which is attached to no. 77 and to the north is no. 76, which is part of another pair of semi-detached dwellings. To the west of the site is an undeveloped parcel of land, which has a much higher ground level than the appeal site. The dwellings at this location are characterised by semi-detached sheds in the rear garden with no.s 77 and 78 having adjoining sheds.

2.0 Proposed Development

- 2.1. Permission is sought for extension and renovation of the existing dwelling to include rear ground floor and first floor extension, new front porch, new domestic shed, first floor winter garden and all associated site works. The proposed extension has a floor area of 68sqm.
- 2.2. The proposal was revised in response to further information with omission of a shed (reduction of 9.928sqm) to the rear of the site and omission of winter garden on the roof of the single-storey portion of the extension.

3.0 Planning Authority Decision

3.1. Decision

Permission refused based on two reasons...

1. The proposed extension is located in a restricted rear garden and the proposal does not comply with section 11.3.1(c) of the Galway County development Plan 2017-2023 which requires the provision of an adequate area of private amenity space for the development. In addition the design, scale, massing and proximity of adjacent boundaries would by virtue of its impact on those adjoining properties, or by the precedent it would create, would seriously injure residential amenities, depreciate the value of property and be contrary to the proper planning and sustainable development of the area, if permitted.

2. The Galway City Development Plan 2017-2023, Section 11.3.1(d) requires that “windows will not directly overlook private open space or land with development potential from above ground level by less than 11 metres “ distance of 11.0m”, in this case the proposed development cannot meet the above policy/standard requirements, and if permitted, would give rise to undue overlooking of adjoining properties, lands with development potential and thus detract from the residential amenity, and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (27/05/19): Further information required including a requirement for revised proposals that deal with concerns regarding the extent and scale of the extension, and provision of a longitudinal section.

Planning report (25/07/19): The revised design was noted however it was considered insufficient private amenity space was retained as well as insufficient separation distance between the first floor window and the rear boundary of the site in respect of development on the adjoining site. Refusal was recommended based on the reasons outlined above.

3.3. Prescribed Bodies

3.3.1 None

3.4. Third Party Observations

3.4.1 None.

4.0 Planning History

4.1 No planning history.

Adjoining site...

4.2 16/1: Permission granted for the construction of four detached dwelling houses and associated site works and services on the site to the west of the appeal site.

5.0 Policy Context

5.1. Development Plan

5.1.1 The relevant development Plan is the Galway City Development Plan 2017-2023.

The appeal site is zoned R (residential) with a stated objective 'To provide for residential development and for associated support development, which will ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods.

5.1.2 Section 11.3.1 (c) Amenity Open Space Provision in Residential Developments

Private Open Space:

Private open space (areas generally not overlooked from a public road) exclusive of car spaces shall be provided at a rate of not less than 50% of the gross floor area of the residential unit.

This open space should where practicable relate directly to the residential unit, which it serves. Some sites will not have the facility to accommodate all of the required provision of the total private amenity space directly and satisfactorily adjoining each individual unit. Therefore, in certain site conditions and development types, provision of private open space may be made up of areas of communal open space, for example, in apartment developments provision of private open space may be made up of areas of communal open space, balconies or terraces.

The scale of proposed extensions shall ensure that an adequate level of private open space is retained on site.

5.1.3 Section 11.3.1 (d) Overlooking

Residential units shall not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres minimum.

5.2. Natural Heritage Designations

5.2.1 None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by DKA Architectural Technologist on behalf of Frankie & Leonie Keane. The grounds of appeal are as follows...

- In relation to open space it is noted that the proposed extension was reduced in floor area and footprint in response to further information. It is noted that the proposal retains over 25sqm of private open space, which would meet the criteria under exempted development.
- The extended living space is required for the family needs of the occupants.
- It is noted that consideration was not taken of extensions to other dwellings in Dangan Heights and Bushy Park Lawn adjoining Dangan Heights.
- In relation to the second refusal reason it is noted that adequate consideration was not taken of permission ref no. 16/1 whose site the appeal site backs onto or the difference in ground levels and the proposal to install a retaining wall to rear of the approved dwellings adjoining the site.
- It is noted that the proposal has no significant impact in regards to overlooking to the adjoining site.

6.2. Planning Authority Response

6.2.1 No response.

7.0 Assessment

7.1. Having inspected the site and examined the associated documents, the following are the relevant issues in this appeal.

Design, scale, visual/residential amenity

Appropriate Assessment

7.2. Design, scale, visual amenity/residential amenity.

7.2.1 The proposal was refused on the basis that the design, scale, massing and proximity of adjacent boundaries would by virtue of its impact on those adjoining properties, or by the precedent it would create, would seriously injure residential amenities as well as the fact that inadequate private amenity space was retained with the existing dwelling. The original proposal was for a single-storey L-shaped extension with roof terrace and a first floor extension that projects 3m from the rear building line. In response to further information, the proposed extension was reduced in size with omission of a shed (reduction of floor area by 9.928sqm) and omission of the roof terrace and access to such from the first floor extension and from ground floor level. The revised proposal provides for a single-storey extension with a ridge height 2.9m and parapet level of 3.4m and a first floor extension projecting 3m from the rear building line and having a ridge height of 5.5m. I would consider that original extension was unacceptable in regards to the provision of the roof terrace that would impact on adjoining amenities.

7.2.2 The revised proposal is mainly single-storey in height and located adjoining the southern boundary. The existing dwelling has a shed adjoining the southern boundary that is attached to a similar shed on the adjoining site. I would consider that the proposal for a single-storey extension the entire depth of the rear garden would be acceptable in regards to overall scale and adjoining amenity due to it being single-storey and the fact that it replaces an existing single-storey structure that takes up a significant part of the southern boundary. I am satisfied that the single-storey extension proposed is of a scale and design that would have no significant or adverse impact on adjoining amenities. The proposed first floor extension is relatively modest in scale in the context of the existing dwelling projecting 3m from

the rear elevation and having a flat roof and ridge height significantly lower than the ridge height of the existing dwelling. I would consider that the design and scale of the revised proposal in response to further information, has adequate regard to the amenities of adjoining properties and is acceptable in design and scale.

7.2.3 One of the main issues in the first reason for refusal relates to the fact that the existing dwelling is left with inadequate private open space with Section 11.3.1(c) of the City Development Plan noted. This section notes that “private open space (areas generally not overlooked from a public road) exclusive of car spaces shall be provided at a rate of not less than 50% of the gross floor area of the residential unit”. It also goes on to note that “the scale of proposed extensions shall ensure that an adequate level of private open space is retained on site”. It is proposed to retain 29.25sqm of private open space behind the rear building line. The first party appellant makes the point that under exempted development an extension could be built with private open space reduced to at least 25sqm. I would consider that this is a valid point and would consider that sufficient private amenity space is retained.

7.2.4 The second reason for refusal related to the proximity of the window on the rear elevation of the first floor extension to the rear boundary of the site in the context of separation distances permitted under Section 11.3.1(d) and its impact on development potential of the adjoining site. The window on the extension is 8.3m from the rear boundary and adjoining boundary of the site to the west. The site to the west is an undeveloped parcel of land with permission granted for four detached dwellings. Levels on the adjoining site are higher than on the appeal site. A longitudinal section was submitted in response to further information through the appeal site and adjoining site showing the proposed development in relation to the permitted development. Given the difference in levels the first floor of the proposed extension would be much lower than the first floor of any development on the adjoining site and such is the case with the development permitted under ref no. 16/1. The permitted dwelling nearest the appeal site is at an angle compared to the rear of the dwelling on the appeal site and the proposed development would meet the required separation distances under Development Plan policy. The adjoining site may not be developed as per the permission granted, I would however consider that

the difference in levels would mean that there would be unlikely to be directly opposing first floor windows due to the level of first floor extension relative to that of the ground level of the adjoining site. Having regard to such fact I do not consider that the extension as proposed at first floor level would compromise the development potential of the adjoining site were it to developed in a different manner than the permission already granted under ref no. 16/1.

7.3 Appropriate Assessment:

7.3.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest 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.

8.0 Recommendation

8.1. I recommend a grant of permission subject to the following conditions.

9.0 Reasons and Considerations

Having regard to the scale, layout and design of the proposed extension, it is considered that, subject to compliance with conditions set out below, the proposed development would not seriously injure the residential of amenities of adjoining properties or the visual amenity of the coastal area. 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 as amended by the further plans and particulars submitted on the 17th day of 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 out 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 extension shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of visual amenity.

3. The existing dwelling and the proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. 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.

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 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 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.

Colin McBride
Planning Inspector

05th October 2019