



An
Bord
Pleanála

Inspector's Report ABP 305389-19

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| Development | Construction of 2-storey semi-detached house on part of the site, together with associated sub-division of back garden. |
| Location | 31 St John Mitchell's Terrace, Athlone, Co Westmeath. |
| Planning Authority | Westmeath County Council |
| Planning Authority Reg. Ref. | 197019 |
| Applicant | Micheailin Ni Choinnigh |
| Type of Application | Permission |
| Planning Authority Decision | Refuse Permission |
| Type of Appeal | First Party |
| Appellant(s) | Micheailin Ni Choinnigh |
| Observer(s) | None |
| Date of Site Inspection | 3 rd January 2020. |
| Inspector | Brendan Coyne |

1.0 Site Location and Description

1.1. The site (0.02 Ha) is located on the southern side of Mitchell's Terrace and contains an end-of-terrace two-storey dwelling (No. 31). A public access laneway adjoins the eastern boundary of the site. The roof profile of the dwelling is hip-ended, and its elevations comprise rendered finishing. The garden to the side and rear of the dwelling is currently overgrown with shrubs and vegetation. The front and eastern side boundaries of the site are defined with mature trees and hedging. Pedestrian access is provided to the side/rear of the dwelling from the adjoining laneway. The pattern of development along Mitchell's Terrace comprises rows of terraced two-storey dwellings. The neighbouring dwelling to the east of the site and adjoining laneway comprises a detached dormer dwelling. Lands to the south of the site are greenfield.

2.0 Proposed Development

2.1. Original proposal as submitted on the 28/01/2019 - Permission sought for the following;

- Construction of a 2 storey 3 no. bedroom dwelling (86sq.m.) attached to the side of the existing dwelling,
- Provision of a new vehicular entrance, front boundary wall, and 1 no. car parking space to the front of the proposed new dwelling,
- Subdivision of the existing back garden and the provision of a new 2m high boundary fence along the shared common rear boundary between the existing and proposed dwelling,
- New connections to existing underground services,
- Associated site works.

2.2. Significant Further Information submitted on the 17/05/2019 comprising the following;

- Revised Site Layout Plan detailing the following;

- A revised boundary of the site outlined in red, including the existing dwelling No. 31 Mitchell's Terrace.
- The provision of 2 no. car parking spaces to the front of the proposed dwelling.
- The provision of 2 no. pedestrian gates along the eastern boundary to serve both the existing and proposed new dwelling.
- Revised Elevation Drawings submitted for the proposed dwelling detail the following;
 - An reduction in the height of the string course on the front elevation to align with and continue the string course on the front elevation of the existing dwelling No. 31.
 - A drop in cill level of the windows opes on the front elevation at first floor level and a raising in the cill level of the window ope on the side elevation.
 - Revisions to the design treatment of the entrance door and window opes on the front and side elevations.

2.3. A copy of the revised public notices was submitted to the Planning Authority on the 13th June 2019.

2.4. Clarification of Further Information was submitted to the Planning Authority on the 25th July 2019, addressing the proximity of the proposal to the eastern side boundary, and access to the rear of the existing and proposed new dwelling.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Westmeath County Council refused permission for the proposed development. The reasons for refusal were as follows;

1. *Having regard to the narrow configuration of the site, the proximity of the proposed dwelling to the east site boundary and the lack of side / rear access, it is considered that the proposed dwelling would constitute overdevelopment of a restricted site and result in a cramped form of development not in keeping*

with the general layout of development in the vicinity. The proposal conflicts with the Athlone Town Development Plan 2014-2020 and would, if permitted, be contrary to the proper planning and sustainable development of the area.

2. *The proposed development would seriously injure the residential amenities of the area, would set an undesirable precedent for similar future development and conflicts with the Athlone Town Development Plan 2014-2020 and would, if permitted, be contrary to the proper planning and sustainable development of the area.*

3.2. Planning Authority Reports

3.2.1. Planning Reports (21st March 2019, 08th July 2019 and 20th August 2019)

Basis for the Planning Authority Decision. Includes:

- Concern regarding the scale of the proposed development on a constrained site.
- The proposed development is unduly close to the eastern boundary. Such development would set an undesirable precedent and would be contrary to Policy P-RLD7 of the Athlone Town Development Plan 2014-2020.
- The proposal provides access to the existing and proposed new dwelling from the adjoining public access laneway. This laneway is not identified as being in the ownership of the applicant and is not included within the boundary of the site as outlined in red. The Planning Authority expresses concern that future occupiers will be unable to bring bins and household / garden items to and from the rear of the dwelling without having to use the access laneway.

3.2.2. Other Technical Reports

3.2.3. Area Engineer Report:

Further Information requested to provide details / plan of how it is proposed to provide access to the rear of the existing dwelling No. 31.

4.0 Planning History

P.A. Ref. 78812060 Permission granted for the construction of a 2 storey extension. Permission approved on the 28/11/1978.

5.0 Policy and Context

Athlone Town Development Plan 2014-2020

Zoning: The site is zoned objective 'O-LZ1' which seeks 'To provide for residential development, associated services and to protect and improve residential amenity'.

P-H6 To have regard to the provisions of the 'Guidelines on Sustainable Residential Development in Urban Areas' and the accompanying 'Urban Design Manual' in assessing applications for housing development.

P-SR1 To support the principle of sequential development in assessing all new residential development proposals, whereby areas closer to the centre of the town, including under utilised and brownfield sites, will be chosen for development in the first instance to promote a sustainable pattern of development.

P-SR2 To encourage and promote the development of underutilised infill and backland development in the town subject to development management criteria being met.

P-SR3 To ensure all new residential development complies with the evaluation criteria for determining the suitability of housing in an urban area, as set out in the National Spatial Strategy.

P-RLD7 To ensure that all new urban development especially in and around the town centre is of a high design and layout quality and supports the achievement of successful urban spaces and sustainable communities.

Table 12.11 Car parking standards

Chapter 12 Section 12.9.3: sets out in detail development management standards

regarding new residential development in urban areas.

Westmeath County Development Plan 2014 – 2020

Chapter 14 Section 14.3: Development Management Standards re. Residential Development

5.1. Natural Heritage Designations

The site is located 0.8km to the north of the Middle Shannon Callows SPA (Site Code: 004096) SAC (Site Code: 000216) and NHA (Site Code: 000216).

6.0 EIA Screening

Having regard to the existing development on site, the limited nature and scale of the proposed development and 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 environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.1.1. A first-party appeal was received from Brendan McGettigan, Architect and Design Consultant, representing the Applicant Micheailin Ni Choinnigh, against the decision made by the Planning Authority to refuse permission for the proposed development.

The following is a summary of the grounds of appeal.

7.2. Re. Reason No. 1

The key contentions under Reason for Refusal No. 1 are addressed under the headings below:

- 7.2.1. **(i) Rear / Side Access:**

- The Council contends that there is a lack of rear / side access to the proposed dwelling. The proposed development provides copious access to the side and rear of the proposed dwelling from the adjoining public access laneway.
- The proposal preserves access to the rear of the existing dwelling, which is consistent with the adjoining terrace of houses.

7.2.2. (ii) Alleged 'Overdevelopment':

- The proposal provides the following quantum of private amenity space for the existing and proposed new dwelling;

Existing Dwelling: 83 sq.m.

Proposed New Dwelling: 72 sq.m.

The contention of overdevelopment does not stand up to factual scrutiny. The proposal complies with Section 14 of the Westmeath County Development Plan re. Development Management Standards for Residential Development.

7.2.3. (iii) Proposed house not 'in keeping' with the general layout in the vicinity:

- The proposed dwelling is a faithful continuation of the height, width, language and finishes of the terrace to which it will be attached.
- The side elevation of the proposal is designed to address the views from down the street and define the urban corner at the laneway.

7.3. Re. Reason No. 2

- The Planning Authority's second reason for refusal is unsubstantiated and gives no basis for how the proposed dwelling would seriously injure the residential amenities of the area.
- The proposed dwelling would improve the residential amenity of the area by replacing an unkept derelict site with a house which is totally in keeping with the existing terrace of houses, to which it would be attached.
- The proposal would reduce the amount of disused urban land and make more efficient use of existing services and urban roads.

- The proposal would not create an undesirable precedent for similar development and would not be contrary to the Athlone Town Development Plan 2014 – 2020.

7.4. Planning Authority Response

The Planning Authority did not respond to the grounds of appeal.

7.5. Observations

None

8.0 Assessment

8.1. The main issues for consideration are the 2 no. reasons for refusal as cited by the Planning Authority. These are addressed under the headings below;

8.2. Reason for Refusal No. 1

8.2.1. The Planning Authority refused permission for the proposed development on the grounds that, due to the narrow configuration of the site, the proximity of the proposed dwelling to the eastern site boundary and the lack of side / rear access, the proposed dwelling would constitute overdevelopment of a restricted site and would result in a cramped form of development not in keeping with the general layout of development in the vicinity. The Planning Authority considered that the proposal would conflict with the Athlone Town Development Plan 2014-2020 and would be contrary to the proper planning and sustainable development of the area.

8.2.2. The proposed dwelling would have a front elevation width of 7.9m and its north-eastern front corner would maintain a setback of 2.8m from the eastern side boundary. The eastern side boundary of the site is angled in a north-easterly / south-westerly direction. The south-eastern rear corners of the proposed dwelling would extend up to the angled eastern boundary. The stepped side building line of the proposed dwelling is orientated in a north-south direction, at an acute angle away from the eastern boundary. Having regard to the pattern of development in the surrounding area, it is noted that the front north western corner of the neighbouring

dormer dwelling to the east provides a setback of only 0.4m at its closest point from its western side boundary, adjoining the access laneway.

- 8.2.3. The existing eastern side boundary is defined with overgrown hedging and trees. The drawings submitted detail that the eastern side boundary will comprise a 1.8m high hedge, with improvements to the existing hedge. The Site Layout Plan details that 2 no. pedestrian access gates will be provided to the eastern side boundary, providing access to the rear of both the existing and proposed new dwelling. These pedestrian gates will be accessed via the laneway which appears to be a public right of way. This laneway provides access to rear of neighbouring terraced dwellings along Mitchells Terrace to the west of the site and the neighbouring dwelling on the eastern side of the laneway.
- 8.2.4. The rear garden of the existing dwelling No. 31 has a width of 4.9m at its widest point, along its rear elevation, and a depth of c. 27m, providing a private amenity space area of 83 sq.m. The rear garden of the proposed dwelling has a width of 7.9m at its widest point, along its rear elevation, and a depth of 22.2m, providing a private amenity space area of 72 sq.m. While I acknowledge that the width of the rear gardens of the existing and proposed dwelling narrow considerably towards their rear / southern ends, it is my view that adequate sized usable open space would be accessible directly from the rear of both dwellings and the quantum of open space provided complies with the requirements of Section 12.9.11 of the Athlone Town Development Plan which requires a minimum of 60 sq.m. private amenity space for a 3-bedroom house.
- 8.2.5. Two parking spaces are provided to the front of the proposed dwelling. This complies with Table 12.11 of the Development Plan which requires a minimum of 1 car parking space for a 2+ bedroom dwelling.
- 8.2.6. Having regard to the configuration, layout, scale and extent of the proposed dwelling, its setback from the eastern side boundary as viewed from the front of the site along Mitchells Terrace, the provision of adequate private amenity space to the rear of both the existing and proposed new dwelling and the provision of pedestrian access to the rear gardens of both the existing and proposed dwelling, it is my view that the proposed development would not constitute overdevelopment of a restricted site and would not result in a cramped form of development. I consider that the

development of a dwelling at this location would be consistent with Policy P-SR2 of the Athlone Town Development Plan 2014-2020 which seeks to encourage and promote residential development on underutilised infill sites.

- 8.2.7. In consideration of the above, I recommend that the appeal should succeed in relation to the Planning Authority's first reason for refusal.

8.3. Reason for Refusal No. 2

- 8.3.1. The Planning Authority refused permission for the proposed development on the grounds that the proposed development would seriously injure the residential amenities of the area, would set an undesirable precedent for similar future development and conflicts with the Athlone Town Development Plan 2014-2020.
- 8.3.2. The front and rear building lines of the proposal would extend and continue the front and rear building lines of the existing dwelling No. 31. The roof line and hip-ended roof profile of the proposal (albeit stepped) would continue the roof line and hip ended roof profile of No. 31. Elevation finishes and roof tiles of the proposal are stated as matching the existing dwelling. The cill level and height of the window opes on the front elevation of the proposal at first floor level would match those of the existing dwelling.
- 8.3.3. It is my view that the scale, form and design of the proposed dwelling, as viewed from the front, would integrate with the form and design of the existing dwelling No. 31, and would not detract from the character and visual amenity of the surrounding streetscape. The proposal would not impact on the residential amenity of the existing dwelling No. 31 by way of overshadowing, overbearing impact or loss of outlook. Given the position of the proposed dwelling, to the north-west of the neighbouring dwelling to the east and having regard to its height and distance of 6.8m from the neighbouring dwelling to the east, it is my view that the proposed development would not impact on the residential amenity of the neighbouring dwelling to the east by way of overshadowing or overbearing impact.
- 8.3.4. The proposal provides a 2.2m tall window ope on its side eastern elevation serving an internal stairwell. It is considered in the interest of preventing overlooking of the neighbouring dwelling to the east, which has window opes on its side elevations, the window ope on the side elevation of the proposal should be fitted with obscure

glazing. This can be dealt with by way of Condition in the event of a grant of permission.

- 8.3.5. A 2m high timber fence would be provided along the rear common boundary between the existing and proposed dwelling. This complies with the requirements of Section 12.9.8 of the Development Plan Privacy which requires that permanent screening of 2m height be provided between the gardens of adjoining houses for a minimum distance of 2.5m behind the rear of the house.
- 8.3.6. Having regard to the layout, scale, form and design of the proposed dwelling, it is my view that the proposed development would not adversely impact on the residential amenity of neighbouring dwellings to either side and would not detract from the character and visual amenity of the surrounding streetscape along Mitchells Terrace. The proposed development complies with the requirements of Section 12.9.3 of the Athlone Town Development Plan with regard development management standards for new residential development in urban areas.
- 8.3.7. In consideration of the above, I recommend that the appeal should succeed in relation to the Planning Authority's second reason for refusal.

8.4. Screening for Appropriate Assessment

Having regard to nature and scale of the proposed development to provide one additional house in a fully serviced and zoned residential area and the nature of the receiving environment, 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.

9.0 Recommendation

- 9.1. I recommend that permission be granted subject to conditions, for the reasons and considerations below.

10.0 Reasons and Considerations

10.1. Having regard to the residential land use zoning of the site, the pattern of development in the area, the size of the site and the layout and design of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not adversely impact on the visual or residential amenity of the area and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

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| 1. | <p>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 May 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.</p> <p>Reason: In the interest of clarity.</p> |
| 2. | <p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p> |
| 3. | <p>The applicant or developer shall enter into a water connection agreement with Irish Water prior to the commencement of this development.</p> <p>Reason: In the interest of public health.</p> |
| 4. | <p>The following requirements of the Planning Authority shall be</p> |

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| | <p>adhered to in full;</p> <p>(i) The vehicular access, serving the proposed development, shall comply with the requirements of the Planning Authority for such road works.</p> <p>(ii) Any gate to be installed shall be inwards opening only and shall not open across the public footpath or the shared vehicular access driveway.</p> <p>Reason: In the interest of traffic and pedestrian safety.</p> |
| 5. | <p>All external finishes, including roof tiles, shall harmonise in colour and texture with the existing dwelling on the site.</p> <p>Reason: In the interest of visual amenity.</p> |
| 6. | <p>The window opening on the side elevation of the proposed dwelling shall be permanently fitted with obscure glazing.</p> <p>Reason: In the interest of residential amenity.</p> |
| 7. | <p>All public service cables to the proposed development, including electrical, telephone cables and associated equipment shall be located underground throughout the entire site.</p> <p>Reason: In the interest of visual amenity.</p> |
| 8. | <p>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.</p> <p>Reason: In order to safeguard the residential amenities of property in the vicinity.</p> |
| 9. | <p>All necessary measures shall be taken by the contractor to prevent the spillage or deposit of clay, rubble or other debris on adjoining roads during the course of the works.</p> <p>Reason: To protect the amenities of the area.</p> |

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| 10. | <p>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.</p> <p>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.</p> |
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Brendan Coyne
Planning Inspector

23rd January 2020