



An
Bord
Pleanála

Inspector's Report ABP 305738-19.

Development	Dwelling house and associated ancillary and site development works.
Location	Lenaboy Gardens, Salthill, Galway.
Planning Authority	Galway City Council
P. A. Reg. Ref.	19/224
Applicant	George and Rachel Gray.
Type of Application	Permission
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Frank D'Arcy
Date of Site Inspection	5 th March, 2020
Inspector	Jane Dennehy.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	3
3.1. Decision	3
3.2. Planning Authority Reports	4
4.0 Planning History.....	4
5.0 Policy Context.....	4
5.1. Development Plan.....	4
6.0 The Appeal	5
6.1. Grounds of Appeal	5
6.2. Applicant Response	6
6.3. Planning Authority Response	7
7.0 Assessment.....	7
8.0 Recommendation.....	8
9.0 Reasons and Considerations.....	8
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

- 1.1.1. The appeal site has a stated area of 1,131 square metres and is located on a brownfield site between Lenaboy Gardens to the northwest and Salthill Road Upper to the south in Galway city. Lenaboy Gardens is a cul de sac along one side of which are two storey houses with front gardens and along part of the other side, to the north east of the appeal site is a residential complex comprising blocks in each of which there are three dwellings. To the east are buildings facing directly onto Upper Salthill Road. At the time of inspection site clearance and preparatory works had been carried out on most of the lands with frontage onto Lenaboy Gardens, at the rear of the houses on Salthill Rod Upper.
- 1.1.2. The site boundary treatment on Lenaboy Gardens and adjoining lands is capped walling circa 1.2 metres in height. Parallel parking is along other opposite side of Lenaboy Gardens and there is no footpath along the site frontage. To the north-west and west and to the south east there are semi-detached two storey houses. The area is a relatively mature suburban residential area.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for construction of a one and two storey dwelling on the site with vehicular access off Lenaboy Gardens and front curtilage parking, and landscaped rear and side private open space enclosed by boundary walls and screen planting on the site. A footpath is to be constructed at the site frontage forward of the proposed front entrance and boundary walling.

3.0 Planning Authority Decision

3.1. Decision

By Order dated, October, 2019, the planning authority decided to grant permission for the proposed development subject to fourteen conditions which are generally of a standard planning, technical and financial nature.

Condition No 2 contains requirements for bscur3e glazing, top hung opening of fixed in place for the master bedroom window.

Condition No 3 indicates requirements relating to construction and height of boundary walls and front boundary treatment with revised drawings to be submitted for compliance agreement.

3.2. Planning Authority Reports

- 3.2.1. The Transportation Department having reviewed the lodged auto track analysis. indicated in its report indicated satisfaction with the proposed development having an entrance gate in excess of three metres in width to facilitate egress in reverse gear onto Lenaboy Gardens.
- 3.2.2. The planning officer who notes the observations in the transportation department's report indicated satisfaction with the proposed development, subject to conditions.

4.0 Planning History

- 4.1.1. P. A. Reg. Ref. 16/160: (PL248081) The planning authority decision to refuse Outline Permission for a two storey over basement house was upheld following appeal on the basis of reasoning relating to traffic generation and safety at the entrance on Lenaboy Gardens.
- 4.1.2. P. A. Reg. Ref. 18/392/ PL 304559: The planning authority decision to grant Permission for demolition of an existing building and construction of a four and half storey block with twelve apartments and parking and access from Lenaboy garden lands to the east of the subject appeal site was upheld following third party appeal.
- 4.1.3. On lands to the west side of the application site there are records of prior applications for single house development. Permission was granted for single house development further to appeal under P. A. Reg. Ref. 15/18 (PL 245041).

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site location is within the "*Established Suburbs*" the provisions

for which are set out in section 2.6. There is recognition of potential for additional residential development subject to a suitable and compatible standard, to take into account the proportions, character and amenities of existing development.

5.1.2. Section 8.7 provides for reinforcement of the distinctive character of the city by way of a high standard in the built environment through urban design good place making ensuring a high-quality built environment and creation of sustainable neighbourhoods.

5.1.3. According to section 11.3.1 (g) vehicular entrances should not normally exceed three metres in width and where feasible the maximum extent of boundary wall and hedge should be retained.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. An appeal was lodged on behalf of the appellants, Mr and Mrs Frank Darcy of 190 Salthill Road owners of the adjoining property and garden on 23rd October, 2019. Copies of drawings and photographs are attached. According to the appeal, there is no objection in principle to development on the subject site lands. The concerns are outlined below:

- The separation distance from the boundary on the land registry map and Mr and Mrs Darcy's property is different to that shown on the application. An attached OS survey map shows the correct boundary.
- A staircase and corner bedroom in the proposed dwelling would overlook the appellant party's property. Obscure glazing and restriction to top hung pivot windows would not deter the overlooking. The appellant may wish to develop house on his own lands at a future date, close to the boundary. There already is an unauthorised dwelling, constructed in the 1960s on the west side of the building housing the Salthill Food Parlour which overlooks the appellant property at 190 Salthill Road and the adjoining property at 192 Salthill Road which is occupied by the son of the appellant.

- There is no right to light or necessity for windows on the elevation facing the Appellant party's land as there is access to light on the north and south and on the roof. The gardens at Nos 190 and 192 are overshadowed from the west and this scenario would be exacerbated by the proposed development.
- The proposed dwelling is of exceptional poor pastiche design, form and expression.

6.2. Applicant Response

6.2.1. A submission was received from MKO on behalf of the applicant on 2nd November, 2019 according to which:

- The land ownership is accurately shown in the application drawings
- The principle of single house development on the site, and subdivision of a lands was established under single house development under P. A. Reg. Ref 16/160 (PL248081). The reason for the refusal was addressed in the application.
- The proposed development would not result in adverse impact on the amenities of the appellant party's property or any neighbouring property. Undue overlooking will not occur and the claim that it will occur by the appellant is baseless. The first-floor window on the south elevation will be fitted with opaque glass as is required by condition attached to the planning authority decision to grant permission. (Condition No 2 refers) The orientation, scale and massing are such that overshadowing would not occur. The planning officer notes that the lands to the north would avail of significant east and southern sunlight. The appellant residence at No 190 Salthill road Upper is to the south east of the site with the proposed house being north/north west.
- The proposed development is compatible with and contributes to the objectives for 'Established Suburbs' as provided for in section 2.4 and section 11.2.8 of the CDP.

6.3. Planning Authority Response

There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. It is noted and agreed with the planning officer that the principle of residential development on the site and adjoining lands on the east side of Lenaboy Gardens adjacent to the properties on Salthill Road Upper has been established.
- 7.2. The issues raised in the appeal which are considered below are that of adverse impact due to overshadowing and overlooking on residential amenities of adjoining properties at Upper Salthill Road in particular Nos 190 and No 192 Upper Salthill Road.
- 7.3. The appellant's property and that of his son at Nos 190 and 192 Upper Salthill Road are to the south east of the appeal site. The upper floor south elevation windows would not directly overlook the rear of the houses. However, the insertion of the development which include upper floor windows facing towards undeveloped lands does represent a major change to the immediate environs and context of the existing established development. The requirement, for opaque glazing and top hung pivot opening only, by condition (No 2), attached to the planning authority's decision to grant permission is supported in that it would nullify all potential for overlooking. In addition, the proposed boundary walling and screen planting enclosing the house and it hardens ensures the protection of privacy and amenities of the appellant's property and adjoining properties. It is also agreed that potential for overshadowing would be negligible having regard to the footprint and position of the proposed development, north/north west of Nos. 190 and 192 Salthill Road Upper.
- 7.4. On *de novo* consideration of the application and appeal, it is considered that the proposed development is compatible with the objectives for 'Established Suburbs' as provided for in section 2.4 and section 11.2.8 of the CDP. The proposed development including the proposed arrangements for ingress and egress of the site of Lenaboy Gardens is acceptable.
- 7.5. The dispute between the parties over the location of property boundaries is noted and it is a matter which can be resolved through the legal process. It is noted that

this issue was not raised in the observation submitted by the appellant at application stage.

7.6. Environmental Impact Assessment Screening.

Having regard to the nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.7. Appropriate Assessment.

Having regard to the planning history for the site, the zoning objective, the location of the site which is on serviced land, to the existing development on the site and in the vicinity and, to the nature and scale of the proposed development, no appropriate assessment issues arise, 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

In view of the foregoing, it is recommended that the planning authority decision be upheld, and that permission be granted.

9.0 Reasons and Considerations

Having regard to the Galway City Development Plan, 2017-2023 according to which the site is located within an area designated a “Established Suburbs” and to the established pattern and character of development in the area it is considered that subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenities of adjoining properties and the visual amenities of the area would be acceptable in terms of pedestrian and traffic safety and convenience and, would 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, 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 first-floor side, south elevation window for the master bedroom shall be have a top hung pivot opening or fixed in place glazing, and shall be in opaque glass only,

Reason: In the interest of the residential amenities of adjoining properties.

Reason: In the interest of the residential amenities of the area.

3. Full details of the position for the proposed front boundary walling and gate which shall not exceed a height of 1.2 metres and of the proposed materials and finishes for the agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of public safety and visual and residential amenity.

4. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours 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.

5. Details of the materials, colours and textures of all the external finishes to the proposed development, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Sample panels shall be erected on site for inspection by the planning authority in this regard.

Reason: In the interest of visual amenity.

6. Details of the proposed arrangements for hard and soft landscaping and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the substantial completion of external construction works. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In the interest of residential and visual amenities.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water and mitigation measures against flood risk including in the basement area, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

8. The developer shall enter into water supply and wastewater connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health.

9. 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.

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.

Jane Dennehy,
Senior Planning Inspector
10th March 2020.