



An
Bord
Pleanála

Inspector's Report

ABP-310510-21

Development	Amendments to previously approved development to include 2 additional dwellings and amendments to house type D.
Location	Dreasla Knockaunnacarragh , Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	202060
Applicant(s)	M. Walsh
Type of Application	Permission
Planning Authority Decision	Split
Type of Appeal	First Party
Appellant(s)	M. Walsh
Date of Site Inspection	11 th September 2021
Inspector	Colin McBride

1.0 Site Location and Description

1.1. The appeal site, which has a stated area 2.896 hectares, is located the south west of Galway City and to the east of Bearna. The appeal site is located on the northern side of the R336. The appeal site is an undeveloped site with access off the R336 that currently serves three existing dwellings. Levels on the appeal site increase moving away from the public road in a northerly direction. Adjoining land uses include a number of existing dwellings along the R336 and undeveloped lands to the north. The appeal site is accessed through an existing service road that provides access to three existing dwellings.

2.0 Proposed Development

2.1. Permission is sought for amendments to a previously approved development (PI. Ref 19/314) to include an enlarged site accommodating 2 no. additional dwelling houses (2 no. 5 bedroom detached dwellings), amendments to previously approved house type D at sites 7 to 12 inclusive and associated site works.

3.0 Planning Authority Decision

3.1. Decision

Split decision

Permission granted for amendments to previously approved house type D at sites 7 to 12 subject to 15 conditions. The conditions are standard in nature.

Refusal for the enlarged site accommodating 2 no. additional dwelling houses (2 no. 5 bedroom detached dwellings). Refused based on one reason...

1. Having regard to the proposal to access the proposed development over a public open space, which was granted planning permission under planning reference number 19/314, as the primary amenity space associated with the residential development permitted thereunder, it is considered that the proposed development,

if permitted, would contravene materially a condition attached to an existing planning permission, compromise the public realm associated with the aforementioned permission, and therefore, the proposed development 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 (26/02/21): Further information required including a justification statement for diminution of the main area of open space associated with the permitted development under ref no. 19/314

Planning report (18/05/21): The amended design to permitted units no. 7-12 under ref no. 19/314 was considered to be acceptable. The proposal to access the enlarged part of the site across an approved open space a part of ref no. 19/314 was considered unacceptable and would contravene condition no. 1 of the parent permission and reduce the quality of the public realm. A split decision was issued with a grant of permission for amended house plans and a refusal for the two additional dwellings.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

20/927: Permission refused for 2 no. five bed detached dwellings to be accessed through a permitted housing development under ref no. 19/314. Refused based on 3 reasons including premature pending provision of wider road infrastructure, compromising the usability of permitted public open space associated with ref no. 19/314 and material contravention of a condition attached to this permission and failure to demonstrate compliance with Part V.

19/314: Permission granted for the construction of 20 no. residential units (4 no. 3 bed semi-detached dwellings and 16 no. 5 bed detached dwellings) and associated site works.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Galway County Development Plan 2015-2021 the appeal site is part of the area subject to the Bearna Plan under variation 2(a) of the Galway County development plan. The appeal site subject to two zonings, the part of the site coinciding with the permitted housing development under ref no. 19/314 is zoned R-residential (Phase 1) with a stated objective to and the portion of the site on which the two additional dwelling are proposed is zoned is zoned R-Residential Existing with a stated objective ‘

Section 13.2 General Development Guidelines

In relation to public open space in residential scheme the requirement is

“on green field sites, the minimum area of useable open space that is acceptable is 15% of the total site area (not including incidental lands). On brown field, infill sites or all other sites, a minimum of 10% public open space will be required”.

5.2. Natural Heritage Designations

5.2.1 None in the vicinity.

5.3. EIA Screening

5.3.1 The proposed development is of a class (Schedule 5, Part 2(10) of the Planning and Development Regulations, 2001 (as amended)) but substantially under the threshold of 500 units to trigger the requirement for submission of an EIAR and carrying out of EIA. Having regard to the nature of the site on lands zoned for residential development, the availability of public sewerage and water supply, the absence of

features of ecological importance within the site, the nature of the adjoining land uses as housing uses and public roads. I conclude that there is no real likelihood of significant effects on the environment based on the nature, size and location of the proposed development. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A first party appeal has been lodged by Planning Consultancy Service on behalf of M. Walsh, Knockaunncarragh, Barna Village, Co. Galway. The grounds of appeal are as follows...

- The proposal seeks to provide two dwellings on an infill site along the R336 with the option of direct access unavailable due to sightline restrictions due to reliance on third parties to achieve such. The provision of multiple access points onto the R336 would be undesirable also. Access to the new dwellings is only viable through the site of the permitted housing development under ref no. 19/314 otherwise the site is landlocked.
- In relation to refusal reason no. 1 it is noted that drawings associated with ref no. 19/314 indicated a future access to the area in question (drawing no. 4002-P-002 Rev A). As this was indicated on the approved plans it is noted that it would materially contravene condition no. 1 of permission ref no. 19/314 and that the proposal for future access would not contravene any other conditions attached to the parent permission.
- The proposed access would not compromise the quality of the public open space and the level of space provided in the approved development exceeded the requirements of the County Development Plan. The requirement is for 15%, the approved development provides for 23% of the site area and with the proposal would still exceed the 15% figure. The quality of the public open space is improved with a landscaping layout provided with two options with no. 1 the preferred option.

- In relation to potential surface materials proposed for the access it is noted such are suitable, however the applicant/appellant suggests a condition requiring agreement of surface material for the access/homezone with the PA prior to the commencement of development.
- The design of the two new dwellings is in keeping with the pattern and scale of development at this location. The density of the proposal new dwellings is acceptable under Section 28 guidelines Sustainable Residential Development in Urban Areas. The proposal for change in house type does not change the density and this is not issue for consideration as part of this appeal.
- The applicant/appellant is willing to provide a footpath along the R336 road frontage by way of condition if considered appropriate.

6.2. Planning Authority Response

6.2.1 No response.

7.0 Assessment

7.1. Having inspected the site and the associated documents the main issues can be assessed under the following headings.

Principle of the proposed development/pattern of development

Public open space quality and design

7.2. Principle of the proposed development/pattern of development:

7.2.1 The proposal is for amendments to a permitted residential development of 20 no. residential units (4 no. 3 bed semi-detached dwellings and 16 no. 5 bed detached dwellings) and associated site works granted under ref no. 19/314. There are two amendments proposed. The first is a changed house design of units no.s 7-12 (House Type D). The approved dwellings are two-storey semi-detached dwellings with revised design being also two-storey semi-detached. The changes in house type are not a significant deviation from the permitted design and feature an amended façade treatment, increased depth and removal of single-storey projection on the rear.

7.2.2 The other amendment is the enlarging of the site of the approved development to include a portion of land to south located between existing dwellings fronting the R336 and the provision of 2 no. two-storey detached (five bedroom dwellings). Vehicular access to these dwellings is to be through the approved development with a connecting roadway across the approved area of open space to link into the approved serviced road to the north.

7.2.3 A split decision was issued with the change in house type approved and the proposal for the 2 no. additional dwellings refused. The change of house type was considered to be acceptable and provides for a minor change with the overall form and scale of the amended house types being in keeping with the permitted pattern and scale of development.

7.2.4 The new dwellings proposed are provided along the R336 on an infill site between existing detached dwellings fronting the public road. The proposal provides for 2 no. larger detached dwellings very much in keeping with the established pattern and scale of the development on the adjoining sites. The appeal submission refers to the fact the permitted development and proposed additional dwellings are low in density and would be lower than density levels recommended national guidelines (Sustainable residential Development in Urban Areas). The proposal is for amendments to approved scheme with a change of house type of 6 no. approved dwellings and the provision of 2 no. additional dwellings. The new dwellings proposed are in keeping with the pattern and scale of development on adjoining sites and I would be satisfied that there are no density issues. I would also note that the design and scale of the proposed dwellings would be acceptable in context of the visual amenities of the area, the amenities of adjoining properties and that there are no daylight/sunlight issues that require assessment due to the conformity to the established pattern of development and level of separation from adjoining dwellings.

7.3 Public Open Space/Quality and Design/contravention of a condition:

- 7.3.1 The proposal for the 2 no. additional dwellings was refused based on one reason. It was considered that the proposal to access the new dwellings over an approved public open space under ref no. 19/314 would contravene materially a condition attached to an existing planning permission and compromise the public realm associated with the aforementioned permission, and therefore, the proposed development would be contrary to the proper planning and sustainable development of the area.
- 7.3.2 In relation to contravention of a condition under ref no. 19/314 this appears to refer to condition no. 1 requiring the development to be carried out in accordance with permitted plans. The development approved under ref no. 19/314 has not been constructed or commenced construction. The proposal is for amendments to an approved permission and such amendments should be considered on their merits. I would consider that refusal for contravention of condition no. 1 of permission ref no. 19/314 does not assess the proposal for amendments and seems to preclude the possibility that permission could be sought to amend the approved development including layout. As the proposal is for amendments to an approved development these should be considered on their merits and not precluded purely on the basis that they do not conform to the plans permitted under ref no. 19/314.
- 7.3.3 The assessment of the proposal and reason for refusal for the 2 no. dwellings also relates to what is considered an inappropriate proposal to access the new dwellings across the permitted area of public open space and the fact that it would reduce the quality of such. As noted above the proposal is for amendments to an approved development and the site is zoned Residential and Existing Residential with no open space zonings applied to the site. The applicant has noted that the reason for the access from the permitted service road and over the area of open space is that the provision of access from the R336 is restricted in terms of sightline provision and the provision of new access points off the route is undesirable with the only option being the proposed option.

7.3.4 I would consider that the provision of access from with the approved housing development is acceptable in principle subject to an acceptable level of open space being provided in the overall housing development permitted at this location. I would consider that the provision of access from within the approved development is more desirable than the provision of individual entrances from the R336. In terms of impact on the approved open space, the approved development is a lower density scheme with a large single area of open space provided. The approved development has a density of 8 units per hectare and the provision of 6,092sqm of open space equating to 24% of the site area. The current proposal entails an enlarged site with two new dwellings in addition to the 20 approved previously on a site of 2.896 hectares giving a density of 8 units per hectare. The requirement under the Galway County Development Plan for public open space is for 15% of the site area for greenfield sites, which would apply to the appeal site. The approved development provided for 24% of the site area as open space. I estimate that the amended layout submitted taking into account the enlarged site and the provision of an access across the approved open space area provides for 20% of the site area as public open space, well in excess of the minimum requirements under Development Plan policy. Having regard to this fact alone, I do not consider that the proposed development constitutes a compromised or poor quality level of open space to serve the overall development. The applicant/appellant did provide a more detailed landscape proposals and two options for providing access to the new dwellings in response to further information. Both options features detailed landscaping plans with Option 1 featuring more hard landscaped area and Option 2 (mislabelled as Option 1 also) a predominantly soft landscaped area. The applicant/appellant preference is Option 1. I would be of the view that given the low density of the overall scheme and the fact that the level of open space provided is well in excess of the minimum requirement of the County Development Plan, the level of provision of open space in the amended scheme is satisfactory. I would consider that although a new access road does cross the approved area of public open space, the level of open space is still ample in size and form to provide sufficient amenity to future residents. In addition I would note that provision of access to an infill site to allow for its development for residential development on residentially zoned lands is justification for the proposal. In relation to overall quality I would consider that both Option 1 and Option 2 both have

sufficient merit in terms of overall quality and that either options would be satisfactory.

7.3.5 The applicant/appellant has suggest the possibility of installation of a footpath along the road frontage of the site and would be amenable to a condition in this regard. I would consider that this is appropriate as there is scope for provision of such at this location and a condition in this regard should be applied.

8.0 Appropriate Assessment:

8.1 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.

9.0 Recommendation

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

10.0 Reasons and Considerations

Having regard to the design, scale, layout and nature of the development proposed, the proposed amendments would be satisfactory in the context of land use zoning, the visual amenities of the area, the amenities of adjoining properties and would be acceptable in the context of traffic safety and convenience. The proposed amendments to the approved development would also retain a sufficient level and quality of public open space to serve the approved and proposed development at this location. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 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, or as otherwise stipulated by conditions hereunder, and the development shall be carried out and completed in accordance with the agreed particulars. In default of agreement the matter(s) in dispute shall be referred to An Bord Pleanála for determination.

Reason: In the interest of clarity.

2. The design and layout of the open space area shall be carried out in accordance with Option 1 as set out in the Landscape Design Statement submitted to the Planning Authority on the 21st day of April 2021. The details of finishes of hard landscaping including shared surfaces shall be submitted and agreed in writing with the Planning Authority prior to the commencement of development.

Reason: In the interests of orderly development.

3. The applicant/developer shall install a footpath along the road frontage of the (along the frontage of the 2 no. detached five bed dwellings). The details of such are to be agreed with the Planning Authority prior to the commencement of development.

Reason In the interests of orderly development.

2. Details of materials, colours and textures of all external finishes to the proposed development shall be submitted to, and agreed in writing with the planning authority prior to the commencement of development.

Reason: In the interests of visual amenity.

3. Site development and building works shall be carried out only between the hours of 07.00 to 18.00 Mondays to Fridays inclusive, between 08.00 to 14.00 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 amenities of property in the vicinity.

4. Drainage requirements including the attenuation and disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To ensure adequate servicing of the development and to prevent pollution.

5 The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including traffic management, noise management measures and off-site disposal of construction/demolition waste. Reason: In the interest of public safety and the amenities of the area.

6. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of housing in accordance with the requirements of section 94(4) and section 96(2) and (3) (Part V) of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 96(7) applies) may be referred by the planning authority or any other prospective party to the agreement to An Bord Pleanála for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan of the area.

7. 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. 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 the Board to determine the proper application of the terms of the Scheme. ABP-305589-19 Inspector's Report Page 18 of 18 Reason: It is a requirement of the Planning and Development Act 2000 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

15th September 2021