



An
Bord
Pleanála

Inspector's Report ABP-310549-21

Development	Demolition of a section of extension, retain and complete a section of extension and refurbishment and alterations to layout and elevations, retention of front entrance door and construction of new canopy over.
Location	12 Cookes Terrace, Bohermore, Townspark, Galway, Co. Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	21106
Applicant(s)	Michael & Catherine Mullaney
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Fintan & Evelyn O'Connor
Date of Site Inspection	12 th November 2021

Inspector

Colin McBride

1.0 Site Location and Description

- 1.1. No 12 Cooke's Terrace is a modest sized, mid terrace, double fronted two storey house with a front curtilage and rear garden, located in one of the older residential estates of Galway City, in Bohermore. A large-scale commercial development is located adjacent to the rear of the gardens of the terrace of houses in which the appeal site is located. Alterations and extensions have been developed at some of the properties including the properties at which the observer parties reside and which adjoining either side of the appeal site. In the rear garden of the existing house there is a part constructed rear extension, including block walling up to a height in excess of three metres across the width of the existing house. At the front, at the time of inspection, the entirety of the front boundary walling and entrance gates had been removed and the site was fenced off.

2.0 Proposed Development

- 2.1. Permission is sought to demolish a section of existing partly constructed ground floor extension to the rear of an existing dwelling, retention and completion a section of existing partly constructed ground floor extension to the rear of the existing dwelling, refurbishment and alterations to the existing layout and elevations, retention of front entrance door and construction of new canopy over and all ancillary works.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 13 conditions. Of note is the following conditions...

Condition no. 5: The roof including parapet walls over the ground floor rear extension shall be reduced to a maximum of 3.1m in height (a reduction of 0.22m), revised plans to be agreed in writing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (02/06/21): The proposal was considered to be acceptable in the context of visual and residential amenities, and compliant with development plan policies subject to conditions reducing the height of the ground floor extension and restricting provision of a shed or garage to maintain a certain level of external amenity space. A grant of permission was recommended based on the conditions outlined above.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

3.4.1 Submissions were received from...

Fintan & Evelyn O'Connor, 11 Cookes Terrace, Bohermore, Galway.

Brendan & Maureen Connaughton, 13 Cookes Terrace, Bohermore, Galway.

The issues raised can be summarised as follows...

- Failure to address the reason for refusal in the previous applications on site/similar issues, overdevelopment of the site, overbearing/visual dominance, lack of amenity space, visual impact on streetscape, structural issues, fire safety concerns, inadequate separation from boundaries.

4.0 Planning History

PL61.308403 (20171): Permission refused for demolition of extension and construction of first floor extension to rear and all ancillary site works. Refused based on one reason...

1. It is considered that the proposed two-storey and single storey extensions, taking into account the existing two-storey extension would be excessive in height, mass and proportion and have a dominant and overbearing impact and would create a sense of enclosure at the adjoining properties. The proposed development and the

development proposed to be retained would seriously injure the residential amenities of these properties, would set an undesirable precedent for further development at similar properties at Cooke's Terrace. The proposed development and the development proposed to be retained would, therefore, be contrary to the proper planning and sustainable development of the area.

PL61.306344 (19139): Permission refused for retention and completion of partly constructed extension to rear of dwelling, refurbishing works to dwelling internally and externally. Refused based on two reasons...

1. Having regard to the excessive depth, height, scale, massing and footprint of the rear extension to be retained and completed, it is considered that the extension constituted overdevelopment of the site that would be overbearing on adjacent residential properties. The proposed development would, therefore, seriously injure the residential amenities of adjoining properties and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to section 11.3.1(c) of the Galway City Development Plan 2017-2021, which requires 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 is considered that the quantum of residual private open space would not be in accordance with the development plan provisions. Furthermore, it is considered that the overall quality of the open space is unsatisfactory by reason of the constrained nature of the area adjacent to walls/structures. The development to be retained and completed would be contrary to the provisions of the Galway City Council Development Plan 2017-2023, would seriously injure the residential amenity of future occupants of the dwelling and would therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Galway City Development Plan, 2017-2023 according to which the site location is within an area subject to the zoning objective R: “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.” According to section 11.3.1 (c) the total area of private open space should not be less than fifty percent of the gross floor area of a residential development. According to section 11.3.1 (d) overlooking from residential units within eleven metres of private open space of land with development potential from above ground level is not acceptable.

5.2. Natural Heritage Designations

None within the zone of influence of the project.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Fintan & Evelyn O'Connor, 11 Cookes Terrace, Bohermore, Galway. The grounds of appeal are as follows...

- The appellant raises concerns regarding the height of the approved extension (conditioned to 3.1m) and question how permission can be granted for an extension with a higher ridge height than the extensions previously refused on site (2.85m) based on scale.
- Due to the difference in ground levels between the appeal site and no.s 11 and 13, the height of the extension is 3.5m and 3.4m relative to adjoining properties. This would be excessive and result in visual dominance and an overbearing impact and overshadowing of the adjoining properties.

- The appellant question whether the height approved was in error and reiterates that it does not make sense to approve a ridge height higher than the previous proposal refused, which was refused due to excessive height.
- It is stated that the extension is built on the applicant's half the party wall and the appellant questions whether consent is required from the adjoining property owners. The appellants indicate that they are unlikely to consent to such. The appellant notes that building on the wall is inappropriate and refers to the previous Board decision (ABP-306244-20).
- The appellant indicates having regard to the height permitted and scale and its location relative to the adjoining property the proposal would have an adverse impact on adjoining residential amenity.
- The proposal does not comply with section 11.3.1(c) of the City development Plan requiring that private open space is not reduced by over 50% of its former amount. Using the front garden in this calculation is inappropriate and was not considered acceptable when assessed under the previous proposal refused on site. The proposal is overdevelopment of the site.
- The alterations to the front elevation are inappropriate and do not successful integrate visually with the character of the existing structures and the proximity of the canopy to a bedroom window in the applicants property would have an adverse impact in terms of privacy and noise.
- The side passage is inadequate in width (1.3m) with Development Plan requirement being 1.5m
- Clarification is required regarding alterations to the side boundary walls on each side.

6.2. Applicant Response

6.2.1 Response by the applicants, Michael & Catherine Mullaney.

- The boundary wall between the site and no. 11 was done with written consent from the landowner and this letter is included under ref no. 19/139.

- The boundary wall between 12 and 13 has been reduced to the original height.
- The proposal is substantially revised from previous proposals and should be granted.
- The private open space provided is commensurate with that of other dwellings at this location.
- The revised design of the canopy was accepted by the Council and such will not impact on light levels to adjoining properties.

6.3. Planning Authority Response

6.3.1 Response by Galway County Council.

- The majority of the issues raised by the appellants were given due consideration in the planning assessment.
- The height of the rear extension approved was considered to be acceptable and only extends 4m from the rear building line and is approximately half the size of that previously refused.
- The PA have no objection to any amendments or addition to the conditions attached to the grant of permission.
- The PA request that the decision to grant be upheld.

7.0 Assessment

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

Design, scale, adjoining amenity

Private open space

7.2. Design, scale adjoining amenity:

7.2.1 The proposal is for retention and completion of a single-storey extension to the rear and a single-storey extension to the front of an existing two-storey terraced dwelling.

Permission has been granted with the permission being for extension that is 3.1m high (3.32m proposed) and extending 4m from the rear building line of the existing dwelling. There is a partially completed extension to the rear that extends approximately 8m from the rear building line and permission has been refused on two previous occasions with the history outlined above.

7.2.2 The appellants' concerns relate to the overall scale of the extension relative to adjoining properties and the construction of the extension on the party wall. The previous proposals on site were for a single-storey extension under (306344) for a 2.85m high single-storey extension extending 8m from the rear building line (this is the works that are partially complete and a part single-storey part two-storey extension with a ridge height of 5.665m (single-storey portion 3.32m) and extending 4.075m from the rear building line. Both were refused due to excessive scale and impact on adjoining amenities, with the single-storey extension also refused due to reducing the level of private amenity space.

7.2.3 The current proposal is for a single-storey extension with a ridge height of 3.32m and a depth of 4m. In terms of overall scale and impact on adjoining properties the current proposal is reduced in scale in comparison to previous proposals on site. Having inspected the site from the adjoining properties on either side, I am of the view that a single-storey extension as proposed would be satisfactory in the context of the adjoining amenities. I would note that there is a fall in level along Cookes Terrace with the ground level of no. 11 lower than the appeal site. It appears the level of no. 13 is at similar level. I would be of the view the depth of the proposed extension is not excessive and taken in conjunction with its single-storey design, would be satisfactory in scale relative to adjoining properties. I am satisfied such would cause no loss of privacy and not result in significant degree of overshadowing and would give rise a common pattern of development in an established residential area such as this.

7.2.4 In granting permission the Planning Authority conditioned that the extension should be reduced in height from 3.32m to 3.1m. The appellants take issue with such noting

that a previous extension of 2.85m was refused due issues of scale including height and the appellant highlight that the extension is higher relative to their property due to the change in levels between dwellings along Cookes Terrace. The previous extension refused with a ridge height of 2.85m was a single-storey extension with a depth of 8m and was deemed excessive in scale. The current proposal is reduced in scale and despite having a higher ridge height, I am of the view that the reduced depth is the significant and material change that lessens impact on adjoining properties. I do consider that given there is scope to reduce the ridge height of the extension that a reduction to 3.1m would be a reasonable amendment to apply. I am satisfied that subject to the amendment to the ridge height, that the height, depth and scale of the extension would be subordinate to the existing dwelling and be satisfactory in terms of physical impact relative to adjoining properties.

7.2.5 The issue of alteration of the boundary wall between the appeal site and the appellants' site at no. 11 is an issue raised. The appellants question the status of the extension in relation to the boundary wall, the nature of alteration proposed and the issue of consent and the status of the wall as a party wall. The partially built extension refused permission for retention appears to make up the boundary wall with no. 11. The plans submitted indicate that the outer leaf of the wall facing no. 11 is to be reduced to 2m in height and the boundary along the rear gardens is to be at that height for its entire length. The applicant has indicated that the entire extent of the extension is within the boundary of their site. It is not clear what the status of boundary wall is on this site with it notable that the existing wall of the partially constructed extension is level with the outer edge of the two-storey portion to the rear of the existing dwelling on the appeal site (see attached photos). I would note that issues concerning consents in relation to party boundaries is not a planning matter and the applicant may require consent if they are making alterations to a party wall. I can only assess planning issues and in terms of physical scale and design, I would consider that the proposal is satisfactory in regards to the proper planning and sustainable development of the area.

7.2.6 The appellants' refer to Section 11.3.1 (f) regarding distance between side boundaries and gables for new dwellings and the standard that such shall normally be 1.5m. The extension is 1.3m from the side boundary with no. 13. I do not consider that this policy applies in this cases. The proposal is for an extension to a terraced dwelling and as noted above and the extension could have instead been tight to the boundary. I am satisfied that the design and scale of such has adequate regard to the amenities of adjoining properties.

7.2.7 The proposal entails retention of a single-storey extension/canopy structure on the front elevation. I am satisfied that this element is subordinate in scale relative to the existing dwellings and is a satisfactory design with no adverse impact on either the visual amenities of the area and the amenities of adjoining properties.

7.3 Private Amenity Space:

7.3.1 The appellants raise concerns that the proposal does not comply with City Development Plan policy concerning retention of private amenity space. Under Section 11.3.1 (c) the total area of private open space should not be less than fifty percent of the gross floor area of a residential development. The dwelling post extension will have a floor area of 138.4sqm (PA incorrectly identifies it as 148sqm in the planning report) giving a requirement of 69.2sqm. The provision of private open space to the rear is 62sqm. The PA accepted that the provision of private amenity space to the front of the dwelling adjacent the parking space could be accepted and that sufficient private amenity space was provided. The PA conditioned that no shed, store or garage could be provided. The policy under Section 11.3.1 (c) does state that such includes areas generally not overlooked from a public road. I am satisfied that the design and scale of the proposal is satisfactory and that sufficient amenity space is provided with the dwelling. The level retained behind the building line is short of that specified under the Development Plan, however I am satisfied based on the PA interpretation that the level of rear amenity space taken in conjunction with private amenity space to the front is sufficient to meet the requirements of the City Development Plan. I would not recommend a restriction on a shed, store or garage

as the exempted development provisions for such has limitations in terms of the level amenity space that needs to be retained.

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 subject to the following conditions.

10.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development, the overall design and scale, which is subordinate in scale to the existing dwelling on site and structures in the vicinity, the proposed development would be satisfactory in the context of the visual amenities of the area and the amenities of adjoining property. 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 and the development shall be carried out and completed in accordance with the agreed particulars. This permission does not include the shed proposed in the development description with no plans submitted for such.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The ridge height of the extension shall be reduced to 3.1m above ground level.

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 orderly development.

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. 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, vibration and dust management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and the amenities of the area.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the

methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interest of sustainable waste management.

Colin McBride
Senior Planning Inspector

10th December 2021