



An
Bord
Pleanála

Inspector's Report ABP 310681-21

Development	Extension to side and rear, Attic Conversion, installation of ridge roof glazing and a Velux window and ancillary site works.
Location	115 Salthill Upper, Galway.
Planning Authority	Galway City Council
P. A. Reg. Ref.	20/228
Applicant	Clodagh Higgins
Type of Application	Permission.
Decision	Grant Permission
Type of Appeal	Third Party
Appellant	Claire Keegan
Date of Inspection	19 th October, 2021
Inspector	Jane Dennehy.

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1.0 Site Location and Description

- 1.1. The application site has a stated area of 240 square metres and is one of a pair of a semi-detached two storey houses (Nos 115 and 117) with front and rear gardens on the east side of Salthill Road Upper. At the site frontage there is a raised height boundary wall and timber gates at a vehicular entrance. On the inner side of the front garden party boundary with No 117 there is a wall extending up to two metres in length and circa 1.5 metres in height.
- 1.2. There is a detached house, No. 113 Salthill Road Upper to the rear/east side, and an apartment development to the north side. To the north side of the site adjacent to the apartment development there is an access route between the road along the side and rear of the house with hedgerows to either side to the rear towards Quincentennial Road overlooking the promenade.
- 1.3. The other house in the semi-detached pair (No 117 Salthill Road Upper) is to the south is the Appellant party's property.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicates proposals for the construction of an extension to the side and rear and conversion of the attic to habitable living space for use as a home office along with installation a roof glazing at the ridge and a Velux window and ancillary works. The total stated floor area is fifty-eight square metres with that of the existing dwelling being 150 square metres.
- 2.2. The application was subject to requests for additional information and clarification of additional information following which further details for the attic level proposals were provided. The planning officer was satisfied that the determination of the decision could proceed in that no maps showing the area of the right of way referred to in the claim by the objector (Appellant) had been provided.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 31st May, 2021, the planning authority decided to grant permission for the proposed development subject to conditions which include the following requirements

Condition No 2: obscure glazing and top hung pivot opening only for the rear attic level window. A compliance submission is required.

Condition No 3 Restriction of the home office to use by occupants of the dwelling, with subletting, no business meetings and visitors and signage not being permitted.

Condition No 7. Removal of exempt development entitlements with regard to additional development within the site curtilage.

3.2. Planning Authority Reports

- 3.2.1. The planning officer, having considered the original and supplementary submission taking into account the issues raised in the third-party objection indicated satisfaction with the proposed development and recommended a grant of permission

3.3. Third Party Observations

- 3.3.1. The appellant party indicated objection in a submission and referred to her claim as to a legal right of way at the side and rear of the application site property and onward to Quincentennial Drive and it is contended that the development would be constructed on the right of way, adverse visual impact, higher density, loss of views from adjoining properties. It is also contended that unauthorised development had been carried out at the front of the property.

4.0 Planning History

P. A. Reg. Ref. 11/193: Permission was granted for demolition of an extension to the side and construction of a two-storey extension to the side and rear.

P. A. Reg. Ref. 12/257: Permission was granted for changes to a previous permitted development for a pitched roof instead of a flat roof, alterations to rear and side elevations and conversion of the attic. Under Condition 2 obscure glazing for a high-level window and omission of attic rooflights was required.

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 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.”*

Development management standards are in Chapter 11. According to section 11.3.1 (l) design and layout for extensions should complement the character and form of the dwelling having regard to the context and adjacent residential amenities.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. An appeal was lodged by Joe Bonnar on behalf of the appellant Ms Clare Keegan owner of the adjoining property at No 17 Salthill Road Upper. According to the appeal: -

- Development would be constructed on the long-established right of way at the side of the property which the appellant claims has been in place for fifty years. It is stated that the route referred to by the planning officer is not the right of way to which the Appellant referred to in her observation lodged with the planning authority at application stage. Copies of Indenture documentation are attached in appendix to the appeal.
- Unauthorised development has been carried out at the property to include raising the front boundary wall, installation of a two metres high gate the

entrance – to the front of are of the right of way to which the appellant claims and a wall at the front party boundary with the adjoining property.

- The issues raised in the objection lodged at application stage are also included. These grounds are as to adverse visual impact and higher density, loss of views from adjoining properties and a claim as to unauthorised development at the front of the property including a wall at the front which it is contended is on the Appellant party's property. are also. It is also contended that unauthorised development had been carried out at the front of the property at the north side of the property

6.2. Applicant Response

- 6.2.1. There is no submission from the applicant on file.

6.3. Planning Authority Response

- 6.3.1. There is no submission from the planning authority on file.

7.0 Assessment

- 7.1. The issues central to the determination of the decision can be considered below under the following sub-headings.

Right of Way and Entitlement to Implement a grant of permission.

Unauthorised development

Visual Impact – Overdevelopment

Environmental Impact Assessment

Appropriate Assessment

7.2. Right of Way and Entitlement to Implement a grant of permission.

- 7.3. The only information available with regard to a possible right of way corresponds to the route at the side of the property (show in image 5.7 of the appeal submission.) the footprint of the proposed side and rear extension would not encroach on this route. It is claimed that that appellant is not referring to this route in her claim as to possible construction of the extension over an established right of way. It is not

clear from review of the documentation available in connection with the appeal and the application as to how the proposed development might encroach on an alternative established right of way. However, it would appear that the claim relates to space outside the footprint of the existing dwelling within the site on the south side of the adjoining route. As acknowledged in the appeal submission itself it would be appropriate for any dispute of this nature to be resolved through the legal system in that these matters are outside the planning remit.

7.4. The Parties have been made aware of the provisions of section 34(13) of the Planning and Development Act, 2000 as amended regarding entitlement to implement a grant of planning permission in the planning officer report. However, if permission is granted, a note to this effect could be included with the Order. Clearly, in the event that it was to be established further to legal proceedings that the proposed development would be located on or would obstruct an established right of way, the development could not be implemented.

7.5. **Unauthorised development.**

7.6. Further to visual inspection and review of the images provided with the appeal, it is noted that the height of the wall height along the front boundary is higher than the front boundary wall of the adjoining property and that timber gates have been erected on the frontage opening onto the route from the front to the rear along the side of the dwelling. In addition, the wall on the inner side of the front garden party boundary has also been observed. The planning status of these works would be a matter for the planning authority's enforcement section to investigate. The lack of finalisation of these matters does not preclude consideration of the proposed development extension and additional attic/roof level elements in that the latter has inter dependency with the entrance arrangements or walls.

7.7. **Visual Impact – Overdevelopment.**

7.8. The appellant raised concerns over loss of garden space and the open aspect in her observation lodged at application stage, detail of which are included with the appeal. The proposed development would not materially alter the front garden in that the footprint proposed is at the side, towards the rear and at the rear of the existing dwelling. The overall increase in footprint attributable to the proposed development is modest. The size, at circa 57 square metres and configuration of the remaining

private open space at the rear which is south facing is considered sufficient in quantum and quality. Furthermore, to the front the dwelling is well setback from the road frontage behind the gardens. There is no objection to the conversion of the attic level space to a home office or to the fenestration and glazing at this level as submitted in the clarification of additional information submission.

7.9. In design and form proposed development is compatible with the existing development and acceptable in views from the public realm.

7.10. Environmental Impact Assessment – Screening.

7.10.1. Having regard to the minor nature of the proposed development and its location in a serviced inner suburban 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.

7.11. Appropriate Assessment.

7.11.1. Having regard to the scale and nature of the proposed development and to the serviced inner suburban location, 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

8.1. In view of the foregoing, it considered that the planning authority decision to grant permission should be upheld based on the following reasons and consideration and subject to the conditions below

9.0 Reasons and Considerations

9.1. Having regard to the architectural character and form of the existing dwelling, the site size and configuration and the footprint, scale, form, height and design of the proposed extension and nature of use for the proposed attic conversion, it is considered that subject to compliance with the conditions set out below, the proposed development and would not seriously injure the visual amenities of the area or the residential amenities of the adjoining properties by reason of

overdevelopment, visual obtrusiveness and overlooking 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, as amended by the further plans and particulars lodged on 10th February, 2021 and 4th May, 2021 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 applicant shall provide for and adhere to the following requirements for the attic level conversion:

Use of obscure glazing and top hung pivot opening only for the rear elevation window.

Restriction of the home office use to use by occupants of the dwelling only, with no visits or use by third parties for business purposes with no subletting or use used in any other than as part of the main dwelling being permitted.

Reason: In the interest of clarity and protection of residential amenities.

3. 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. The use of timber on the front façade shall be omitted and replaced with natural stone facing.

Reason: In the interest of visual amenity.

4. 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.

5. 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.

6. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001 as amended, shall not be carried out within the curtilage of the dwellings without a prior grant of planning permission.

Reason: In the interest of residential amenities

Jane Dennehy,
Senior Planning Inspector
12th November, 2021.