



An
Bord
Pleanála

Inspector's Report

ABP-311083-21

Development	Construction of 2-storey house with shed to rear, new vehicular entrance, and ancillary siteworks.
Location	Ardaghowen Lane, Rathquarter Td, Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	217
Applicant(s)	Noel & Mary McLoughlin.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Jacinta Kelly.
Observer(s)	None.
Date of Site Inspection	20 th April 2022.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to an urban dwelling site located on Ardaghowen Lane, within the townland of Rathquarter to the east of Sligo City Centre. Ardaghowen lane is a cul de sac of well-established residential properties to the east of the Mall. Sligo Regional Hospital is located within 200m to the west of the site. The appeal site comprises the western side of the garden of an existing dwelling and has a stated area of 0.061 hectares.
- 1.2. The dwellings along Ardaghowen Lane are characterised by a mix of dwellings of varied age, size, and design. The existing dwelling of which the site forms part is a two storey property facing southeast. To the west is a single storey hipped roofed dwelling.

2.0 Proposed Development

- 2.1. The application involves permission for the construction of a two storey house with shed to the rear, new vehicular entrance and ancillary site works.

3.0 Planning Authority Decision

3.1. Decision

By order dated 19th July 2021 Sligo County Council issued notification of decision to grant permission and 7 conditions were attached which included condition 7 requiring payment of development contribution of €3,656.00.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Planner's report sought additional information to include proposed connection points to Irish Water Network, soakaway design calculations. The detail of the septic tank serving the adjacent dwelling was queried and a daylight and sunlight assessment sought to assess impact on the adjoining property.

Second report following further information considers the proposal to be appropriate and recommends permission subject to conditions, consistent with the subsequent decision.

3.2.2. Other Technical Reports

Assistant Scientist Environment Section – No objection. Further information required regarding surface water proposals, a construction demolition waste management plan and environmental management plan.

Architects Report indicates no objection.

Senior Executive Engineer Water Services notes pre-connection enquiry with Irish Water indicating viability of connection regarding to water and wastewater services. Proposal to discharge stormwater on site requires design in accordance with BRE Digest 365. No objection subject to connection agreement with Irish Water and development in accordance with Irish Water Standards codes and practices.

Subsequent report recommends prior agreement regarding revised calculations in respect of the treatment of storm water demonstrating adequate size to cater for a 100 year storm and including 15% allowance for climate change. Soak pit to be located a minimum 7.5m away from road edge and 4m from foundations of existing or proposed structures including boundary walls.

Area Engineer – No objection subject to standard conditions.

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observations

A submission from a neighbouring resident to the west Mrs Jacinta Kelly. The submission notes that the septic tank serving her dwelling is located on the appeal site (in the vicinity of the proposed shed). There is a legal agreement regarding access for maintenance. The letter from Hickey Coghill Solicitors confirms the

easement to keep maintain, repair and replace a septic tank in the rear garden of the property of Noel and Mary McLoughlin and a copy of the agreement is appended. Objection also to the removal party boundary wall and replacement with 2.4m high wall. Concerns regarding the removal of trees and negative impact on right to light. Proposal will have a negative impact on residential amenity.

A second submission following further information response maintains concerns regarding the blocking of access to septic tank. It is noted that there is no agreement to the alteration of entrance wing wall. The contorted and elongated angular character of the dwelling will result in negative impact on established residential amenity. Flat roofs have potential for use as roof terraces and entrance on western elevation will result in disturbance and loss of residential amenity. Concern arises regarding the potential rental of the property, traffic congestion and safety issues. Proposed site subdivision and overdevelopment is inappropriate on a residential cul de sac of mature properties and will set an undesirable precedent. No housing need.

4.0 Planning History

No details of Planning History on the appeal site have been provided.

5.0 Policy Context

5.1. Development Plan

The Sligo and Environs Development Plan 2010-2016 incorporated into the Sligo County Development Plan 2017-2023 refers

The site is zoned RE - Existing residential areas. The zoning objective is to “Protect and Enhance existing residential amenity.”

P-CC-HOU-1 Ensure that a high priority is given to locating residential development within the existing city centre, utilising brownfield sites, infill/gap sites, and upper floors of city centre areas (“living over the shop”)

5.2. Natural Heritage Designations

The site is not within a designated area. The nearest such sites is Lough Gill SAC which lies within 200m to the south and east.

5.3. EIA Screening

The proposed development is of a class 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 development, which is a new dwelling and associated site works, the absence of features of ecological importance within the site, I conclude that the necessity for submission of an EIAR and carrying out of EIA can be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Jacinta Kelly, owner of the dwelling on the adjoining dwelling site to west. Grounds of appeal are summarised as follows:

- Access to the septic tank serving Ms Kelly's property will be blocked by the development. This septic tank was installed in the early 1950s and includes a soakaway which requires regular maintenance.
- Legal agreement is in place since 1964 in the form of an indenture containing provisions regarding right of entry for the purpose of constructing altering laying down or replacing said septic tank. Proposal would be prejudicial to public health.
- While further information submission suggests that an allowance has been made in the design for future connection this would involve considerable cost.
- There is no agreement to alter appellant's wing wall to provide for sightlines.
- No provision for permanent screening along common boundary.

- Large specimen beech tree which dominates the front area of the site is not addressed.
- Contorted elongated angular layout is inappropriate. Potential for use of flat roofs as terraces and location of entrance door on western elevation results in injury to residential amenity.
- Ardaghown Lane does not have the capacity to accommodate an additional dwelling.
- Inappropriate overdevelopment on a mature residential cul de sac.
- Housing need not established.

6.2. Applicant Response

6.2.1 The response by Annabel Gilmarten on behalf of the first party is summarised as follows:

- Applicants seek to downsize to the proposed dwelling.
- The applicants have offered to connect the appellant's property to the proposed new sewer at their own expense and to remove the existing septic tank to avoid issues in the future. If the appellant does not wish to avail of this offer the status quo will remain and access to the septic tank will be maintained as existing.
- Wing wall is 1.14m and does not impede sightlines therefore not necessary to demolish. Hedges to be setback to improve sightlines.
- Proposed house is 6.95m from the appellant's house. Initial proposal was to build up the common boundary wall to 1.8m to provide for privacy however the appellant objected to the removal of the wall in the initial submission. The applicants happy to retain the existing wall and put up a 1.8m high timber fence on their side of the wall.
- Beech tree is to be retained.

- No access is provided to flat roofs overlooking the appellant's garden. Doors from bedroom can open onto south facing area fronting the dwelling to provide Juliette balcony 1m deep.
- Traffic generation will be minimal. Parking and adequate sightlines are provided.
- Site is zoned existing residential. Increasing the density is appropriate
- House is suitably designed and scaled to avoid visual obtrusion.
- Shadow assessment concludes that the altered lighting levels fall within tolerable bounds. Recommendations of BRE Guide have been satisfied in all cases with no undue loss of skylight or sunlight amenity.

6.3. **Planning Authority Response**

Response of the Planning Authority requests the Board to uphold the decision to grant permission.

6.4. **Observations**

No submissions.

7.0 **Assessment**

- 7.1.1. Regarding the principle of development, I consider that the densification of the site is fully supported by national and local planning guidelines policies and objectives pertaining to sustainable residential development in urban areas. I consider that the principal planning issues arising in this appeal relate to the matter of the existing septic tank system on the site serving the adjacent dwelling, the suitability of the design impact on residential amenity and traffic impact. The issue of appropriate assessment also needs to be addressed.

7.2. The existing Septic Tank

7.2.1 There is an existing septic tank system located on the appeal site serving the appellant's dwelling to the west and a legal agreement is in place regarding access and maintenance in this regard. It is noted that within the response to the appeal the first party has indicated agreement to provide and pay for the connection of the appellants dwelling to the public sewer and to decommission and remove the existing septic tank. It is also proposed to remove the existing septic tank serving the dwelling to the east. Clearly the removal of the two existing septic tanks would be a positive outcome in terms of public health and amenity. I note that it is not clear whether the third party appellant is agreeable to this and the Board might request a submission from the third party appellant to clarify this matter.

7.2.2 In the event that the agreement of the third party appellant is not forthcoming the applicant has indicated that the status quo will remain regarding ongoing access for maintenance purposes. I note that the EPA's current guidance Code of Practice Domestic Wastewater Treatment Systems pe ≤10 2021, which relates to proposals for new houses to be served by a private waste water treatment systems, requires a minimum separation distance requirement of 7m for tank / plant and 10m infiltration / treatment area from any dwelling. In the case of the appeal site the septic tank serving the adjacent dwelling is located 11.5m from the proposed dwelling. The appellant's septic tank system is a long-established (c1950) existing effluent treatment system. Given that the applicant proposes to provide for connection to public sewerage facilities in relation to the existing two and the proposed dwelling, I consider that it would be unreasonable to refuse permission due to the existence of the appellant's septic tank system on the appeal site.

7.2.3I consider that the opportunity for the appellant to avail of connection to the public sewer to minimise the potential adverse effects arising from an established private treatment system is to be welcomed and encouraged in terms of proper planning and sustainable development. As regards the agreement on this issue I would refer to Section 34(13) of the Planning and Development Act 2000, as amended as follows:

“A person shall not be entitled solely by reason of a permission under this section to carry out any development.”

7.3 Design and Impact on Residential Amenity

7.3.1 The appellant raises concern regarding the design and layout of the dwelling. I consider that the proposal for a contemporary structure is appropriate and is not out of character in terms of the mixed nature of the established dwellings along Ardaghown Lane. The appellant has raised concerns about the potential use of flat roofs as balconies and disturbance arising from location of the main entrance doorway along the western elevation of the dwelling. I note that it is not proposed to provide access to flat roofed areas and the only balcony is a narrow balcony to the front elevation from the upper floor bedroom. The dwelling is set back in excess of 2m from the common boundary with the appellant’s dwelling and therefore will not give rise to any undue disturbance impact. I consider that the proposed design appropriately mitigates negative impact on established residential amenity. As regards boundary proposals it is proposed within the response to the appeal to retain established boundary wall and provide for a 1.8m high fence within the appeal site to screen the dwelling. I consider that the design is appropriate for the site and will not give rise to any undue residential amenity impacts.

7.4 Traffic

7.4.1 As regards traffic Impact I do not consider that the traffic generated by the proposed development will be significant and the proposal will not give rise to interference with the flow of traffic on the road. Safe access and egress can be attained.

7.5 Appropriate Assessment

7.5.1 The proposed development would comprise a fully serviced dwelling within an established residential area in Sligo. It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening

determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

Recommendation

I recommend that permission is granted in accordance with the following reasons, considerations, and conditions.

Reasons and Considerations

Having regard to the to the established residential nature of the area, the zoning provisions for the site as set out in the current Sligo and Environs Development Plan, and to the design, character and layout of the development proposed, it is considered that the proposed dwelling would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact and traffic safety, would not be prejudicial to public health and would otherwise be in accordance with the provisions of the current Development Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

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 drawings and details submitted to the planning authority on the 23rd June 2021, and by the further plans and particulars received by An Bord Pleanála on 7th September, 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. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

3. The applicant or developer shall enter into water and waste water connection agreements with Irish Water, prior to commencement of development.

Reason: In the interest of public health and orderly development.

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

Reason: In the interest of public health and to ensure a proper standard of development.

5. All service cables associated with the proposed development (such as electrical, television, telephone and public lighting cables) shall be run underground within the site.

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

6. 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 hours of working, noise management measures and offsite disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

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, 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.

Bríd Maxwell
Planning Inspector

19th May 2022