



An
Bord
Pleanála

Inspector's Report

ABP-311457-21

Development	Retention of rear extension and modify same. Associated site works.
Location	158 Laurel Park, Newcastle, Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	21231
Applicant(s)	Barry Noone
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Barry Noone
Observer(s)	None
Date of Site Inspection	9 th December 2021
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 238sqm comprises an existing two storey semi-detached dwelling with a large single storey flat roof extension to the rear. The general area is characterised as residential with similar houses adjoining the site. A set of photographs of the site and its environs taken during the course of my site inspection is attached. These serve to describe the site and location in further detail.

2.0 Proposed Development

- 2.1. Retention planning permission is sought for the existing rear extension (35 sqm) to an existing dwelling house (146 sqm) and planning permission to complete / modify same.
- 2.2. The application was accompanied by a cover letter setting out the following as summarised that are intended to address previously highlighted matters:
- Reduction in footprint of extension and increase in the private amenity space to 61sqm. This is in excess of the national guidelines of 25sqm and at 42% of GFA complies with the requirements of the Development Plan.
 - The building is to be moved away from the site boundaries and 2 no windows with obscure glazing are to be inserted in the rear
 - The internal layout is to be modified so that the extension becomes intrinsic to the use of the overall house.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Galway City Council issued notification of decision to refuse permission for the following 2 no reasons:

1) The development to be retained does not meet the Galway City Council Development Plan 2017 – 2023 requirements for the provision of an adequate area of private amenity space for the development. The proposals would therefore contravene Development standards and by the precedent it would create if permitted it would seriously injure the residential amenities of the area

and depreciate the value of property in the area and be contrary to the proper planning and sustainable development of the area.

- 2) *The extension for which retention is sought is positioned at the rear of the site with a tenuous / limited link to the existing dwelling and it permitted, the layout of the extension would facilitate its use as a self-contained unit, contrary to the established residential character of the area, leading to a deterioration in the residential amenity and contrary to the Galway City Council Development Plan 2017 – 2023 which seeks developments to “ensure the protection of existing residential amenity and will contribute to sustainable residential neighbourhoods”.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The **Case Planner** has recommended that permission be refused for 2 reasons relating to (1) inadequate private amenity spaces and (3) layout would facilitate use as a self-contained unit. The notification of decision to refuse permission issued by Galway City Council reflects this recommendation.

3.2.2. Other Technical Reports

- None

3.3. Prescribed Bodies

3.3.1. None

3.4. Third Party Observations

3.4.1. None

4.0 Planning History

- 4.1. The following history has been made available with the appeal file. There is no evidence of any previous appeal on this site:

- **Reg Ref 18/298** – In 2018 permission was refused to Barry Noone at 158 Laurel Park for retention permission for and extension and planning permission to complete the works for 3 no reasons relating to (1) inadequate private amenity spaces, (2) substandard daylight and sunlight and (3) layout would facilitate use as a self-contained unit.
- **Reg Ref 19/80** – In 2019 permission was refused to Barry Noone at 158 Laurel Park for permission / retention for the development which consist of retaining an extension to the house and for permission to complete the alteration works for 3 no reasons relating to (1) inadequate private amenity spaces, (2) substandard daylight and sunlight and (3) layout would facilitate use as a self-contained unit.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Galway City Development Plan 2017 – 2013**. The site is within the ***Established Suburbs*** of Galway city on lands Zoned ***Residential R*** where the objective is *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*.

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site.

5.3. EIA Screening

- 5.3.1. Having regard to the nature of the development comprising a residential extension located in a built up area zoned for residential development where public water mains and sewerage are available the need for environmental impact assessment can be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The first party appeal against the notification of decision to refuse permission may be summarised as follows:

6.1.2. Refusal Reason No 1

- The applicant is proposing to reduce the footprint of the extension and increase the private amenity space to the side and rear to 61sqm. this is well in excess of the national guidelines of 25sqm and at 42% of the gross floor area also substantially complies with the requirements of the Development Plan.
- In terms of precedent it is submitted that there are a number of extensions in the immediate area (map provided). No observations were submitted. A depreciation of property values cannot be substantiated.

6.1.3. Refusal Reason No 2

- The Planning Authority are making an assessment on what they think may happen. The Planning Authority is obliged to take the application drawing / documents that have been submitted on their merits. The decision should be overturned.

6.2. Planning Authority Response

6.2.1. None

6.3. Observations

6.3.1. None

6.4. Further Responses

6.4.1. None

7.0 Assessment

7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the

key planning issues relating to the assessment of the appeal can be considered under the following general headings.

- Principle
- Private Amenity Space
- Self-Contained Unit
- Appropriate Assessment.
- Other Issues

7.2. Principle

- 7.2.1. Under the Galway City Development Plan 2017 – 2023 the site is within the *Established Suburbs* of Galway city on lands Zoned *Residential R* where a residential extension is an acceptable development in principle subject to compliance, with the relevant policies, standards and requirements set out in plan.

7.3. Private Amenity Space

- 7.3.1. Galway City Council refused planning permission for 2 no reasons citing in the first reason for refusal that the proposed development does not meet the Galway City Council Development Plan 2017 – 2023 requirements for the provision of an adequate area of private amenity space for the development.
- 7.3.2. As documented in the Case Planners report the applicant is seeking to retain the rear extension for the third time in the last 4 no years. While the applicant is now proposing to reduce the floor area by demolishing and setting back the side extension in order to provide an area of less than 1 metre wide between the amended extension and the side boundary it remains that the private amenity space to the rear of the existing dwelling is substandard in both qualitative and quantitative terms.
- 7.3.3. I refer to Section 11.3.1(c) Amenity Open Space Provision in Residential Developments of the Development Plan where it states 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 further states that *the scale of proposed extensions shall ensure that an adequate level of private open space is retained on site.*

- 7.3.4. The existing house has a stated floor area of 146sqm. The rear extension to be retained has a stated floor area of 35sqm. This gives a combined floor area of 181sqm and therefore there is a private open space requirement of 90sqm. However, I note that the Case Planner sought a private open space requirement of 73 sqm presumably based on the floor area of the main house (146sqm). Even taking the requirement for a minimum provision of 73sqm of private open space the quality and quantity of space to be provided (as modified) that is not overlooked by the public road is inadequate, not fit for purpose and therefore unacceptable.
- 7.3.5. Amenity space is more than a quantitative requirement it is also imperative that such space is ultimately a useable space that is fit for purpose. I refer to the site layout plan submitted with the appeal and note that the applicant has highlighted an area of private amenity space to the side and rear of the main house with a stated area of 61sqm. The side access passageways and the 1 metre set back to the side and rear of the modified extension and the adjoining boundary are not considered to be useable residential amenity spaces. Therefore, what is proposed in this modified scheme falls short in qualitative standards and cannot be supported. Together with my site inspection (site photos refer) it is evident that there is no suitable private rear open space available to serve the development. Refusal is recommended.

7.4. Self-Contained Unit

- 7.4.1. Galway City Council in their second reason for refusal states that the layout of the extension would facilitate its use as a self-contained unit, contrary to the established residential character of the area and leading to a deterioration in the residential amenity of the area.
- 7.4.2. The applicant proposes to make the extension an intrinsic part of the main dwelling. The plans submitted indicate a connection to the dwelling. However, I share the concerns raised by the Case Planner that the extension *can easily be separated and used as such notwithstanding the drawings submitted*. I am satisfied that this matter can be dealt with by way of a suitably worded condition requiring that the extension, if permitted is not used as a separate unit as follows:

*The link between the main dwelling and the rear extension shall be maintained.
The extension shall not be used as a separate dwelling unit, and shall not be let or sold as a flat independent of the main dwelling.*

Reason: *In the interest of orderly development and residential amenity*

7.5. Other Issues

- 7.5.1. **Development Contributions** - I refer to the Galway City Council Development Contribution Scheme 2020-2026. I have considered the sections entitled "Retention Exemptions" where it states that "*irrespective of the exceptions/reductions set out in Table 5 in the case of retention permissions, no reductions in whole or in part shall apply to permissions for retention of development. All such development contributions will be charged at a multiple of 1.25 times the applicable rate of development contributions*". Accordingly, it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.
- 7.5.2. **Appropriate Assessment** - Having regard to the nature and scale of the development and its distance 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.

8.0 Recommendation

- 8.1. I have read the submissions on file and visited the site. Having due regard to the provisions of the Development Plan, together with all other issues arising, I recommended that permission be **REFUSED** for the following reasons and considerations.

9.0 Reasons and Considerations

- 1) Having regard to the limited size of the site and the scale of development proposed to be retained and modified, it is considered that the proposed development would

result in an unsatisfactory standard of residential amenity for future and existing occupants of the house and result in overdevelopment of the site by reason of inadequate provision of good quality open space. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Mary Crowley

Senior Planning Inspector

13th December 2021