



An  
Bord  
Pleanála

## Inspector's Report ABP 311918-21

### Development

Amalgamate Sites 1&2 permitted under P. A. Reg. Refs.16/240 &19/377 for a detached house and garage & revisions to internal road permitted under P. A. Reg. Refs. 16/240, 19/377 & 19/364 and associated site works.

### Location

Knocknacarra Road, Salthiill, Galway.

### Planning Authority

Galway City Council

### P. A Reg. Ref.

21 128

### Applicant

Shane O'Connor

### Type of Application

Permission

### Decision

Refuse Permission.

### Type of Appeal

First Party X Refusal

### Appellant

Shane O'Connor

### Date of Site Inspection

21<sup>st</sup> February, 2022

### Inspector

Jane Dennehy

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## **1.0 Site Location and Description**

- 1.1. The site has a stated area of 4,840 square metres is located on the south side of Knocknacarra Road at the junction with Gentian Hill to the west. The two plots subject of the application are to the west side of a third plot on which a partially constructed is located. To the east side is a corner site dwelling at the junction of Knockcarra Road with a minor road to the east side off which there is access to the site which is at present in use as a construction access. The ground level with in the stie is below the level the public road slopes downwards towards the southwest towards Galway Bay from the north. At the western end further to site preparatory and construction works, the level is raised above the level at the eastern end.

## **2.0 Proposed Development**

- 2.1. The application lodged with the planning authority indicate proposals for Amalgamation of Site Nos 1 & 2 as permitted under P. A. Reg. Refs.16/240 &19/377 to provide for one detached house with a stated floor area of 690 square metres and a garage with a stated floor are of sixty-nine square metres along with revisions to internal access road permitted under P. A. Reg. Refs. 16/240, 19/377 & 19/364 and associated site works. Access is to be off the access road to the west serving at present as a construction access and curtilage parking is to be located to the south side of the dwelling. The ground levels are to be restored to the original predevelopment levels further to the interventions which facilitated the construction of the permitted Dwelling on Plot 3.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By order dated, 18<sup>th</sup> October, 2021, the planning authority decided to refuse permission on ground of material contravention of specific objective for the subject lands under section 11.2.8 of the CDP according wot which the lands at the junction with Gentian Hill shall not have a density of thirteen houses per hectare and a shall be restricted to single storey dwellings and serious injury to the residential amenities of the area.

### 3.2. Planning Reports

- 3.2.1. The reports of the Transportation Department and the Climate Change and Environment Section indicate no objection subject to conditions.
- 3.2.2. A submission from the Department of Tourism, Culture, Arts, Gaeltacht Sport and Media Planning indicates a recommendation for clarification to be should as to any potential for impact on European sites.
- 3.2.3. A third-party objection lodged with the planning authority indicated concerns as to excessive height and conflict with the CDP by way of the proposal for two storeys and, impact on views and visual amenities
- 3.2.4. The planning officer confirms in his final report no objection to amalgamation of the two sites but that he considers the two-storey dwelling is unacceptable having regard to section 11.2.8 of the CDP (See section 5 below.) Additional information and clarification of additional information requests in respect of levels and fill material within the site, appropriate assessment and house design had been issued and responses received.

### 4.0 Planning History

**P. A. Reg. Ref. 06/831 (PL61.224664)** Further to appeal, the planning authority decision to grant permission for four houses was upheld. One house was omitted under Condition No 2 along with additional requirements regard to the layout, road layout and width and lighting based on reason relating to visual amenity and protection of conservation areas. (Candidate European Sites).

The duration of the grant of permission was subsequently extended until 13<sup>th</sup> January, 2018 under P. A. Reg. Ref. 12/219.

**P. A. Reg. Ref. 16/240 (PL61.247872)** Further to appeal which was determined in accordance with the provisions of section 139 of the Act, in respect of amendments to the three previously permitted dwellings it was determined that the planning authority be directed to omit subsections 2 (i) for a reduction to floor ceiling height at ground level, (iii) omission of garage walls, and (iv) non habitable use only for ground floors. One house was omitted under Condition No 2 along with additional requirements regard to the layout, road layout and width and lighting based on

reason relating to visual amenity and protection of conservation areas. (Candidate European Sites).

**P. A. Reg. Ref. 19/377:** Permission was granted for change of house plans and revised site boundaries to include internal alterations and basement levels for Sit Nos 1 and 2.

**P. A. Reg. Ref. 19/364:** Permission was granted for change of house plans for site No 3 (permitted under P. A. Reg. Ref. 16/240) from a two-storey house to a single storey house with domestic shed and associated works.

## 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 the “Outer Suburbs” and according to section 2.5, the objective for which is to ensure regard for existing patterns of development and that the proposed development does not adversely affect the character of an area.
- 5.1.2. The application site comes within an area subject to the zoning objective Lower Density Residential (LDR) providing for a lower density for the purposes of protection of residential amenities. According to section 2.9. *The prescribed residential densities in these areas are considered appropriate due to the established residential pattern, deficiencies in service provision and significance of the landscape. Such areas require specific development objectives, and it is an objective to: Protect the character of these areas by ensuring new development has regard to the prevailing pattern, form and density of these areas.*

Development management standards are in Chapter 11. According to a specific objective within section 11.2.8 of the CDP the lands at the junction with Gentian Hill shall not have a density of thirteen houses per hectare and shall be restricted to single storey dwellings.

### 5.2. Section 28 Strategic Guidance.

The policies and standards within the following statutory guidelines are applicable.

## **6.0 The Appeal**

6.1. An appeal was received from the applicant's agent on 10th November, 2021 in which it is submitted that:

6.2. According to the appeal: -

- The proposed development is acceptable in that it is for a low profile, two storey house and that having regard to the site planning history and that at the location the principle of low profile two storeys has been accepted both by the planning authority and the Board following appeal.
- The core issue in the refusal is the principle of habitable accommodation being over two levels or two storeys having regard to the specific objective under section 11.2.8. A similar specific objective was included in the 2005-2011 CDP (and in the 2011-2017 CDP) at the time of the determination of the application under P. A. Reg. Ref. 06/831 allowing for two level houses. (The duration was extended to 2013 under P. A. Ref. Ref. 12/219).
- Under P. A. Reg. Ref. 16/240 a more substantial lower ground floor level was permitted. However, the requirement that the use be restricted under Condition No 2 to ancillary non habitable uses was omitted following appeal. If the grant of permission under P. A. Reg. Ref. 16/240 had been implemented the store and garage could be converted to habitable accommodation within the meaning of exempt development under section 4 (1) (h) of the Planning and Regulations, 2001 as amended, (The Regulations) as no external works would be involved.
- Although the appeal was not considered *de novo*, the inspector in her report on the previously permitted low profile two storey houses, noted the pitched roof bungalows being proposed with an apex higher than the flat roof houses subject of that proposal. She also remarks that single storey house to the

east has greater impact on views. It is requested that the current proposal be subject to similar assessment.

- The section and contextual elevations demonstrate a height lower than that previously permitted. It is acknowledged in the planning officer report that it is established in the application drawings that the height will be less than or equal to the previously permitted development and, “.... *that the height of the dwelling is considered acceptable.*”
- The revisions permitted under P. A. Ref. Ref. 19/377 allowed for three levels within the site. (Basement, lower ground floor and upper ground floor.) It establishes and reinforces the principle of habitable accommodation over two levels. A bedroom is included at the lower ground floor level. Similarly, as in the case of the grant of permission under P.A. Reg Ref 16/240 the store and garage could be converted to habitable accommodation within the meaning of exempt development under section 4 (1) (h) of the Regulations as no external works would be involved.

### **6.3. Planning Authority Response**

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

## **7.0 Assessment**

- 7.1. There is no objection to the reduction in total to two from three (permitted) dwellings/plots and incorporation of a small section of the original plot of house No 3 as provided for in the original grant of permission for the overall site. The amalgamation of plots 1 and 2 provide for a proposed dwelling with a wide footprint and frontage which is setback behind the front building line of the dwelling on Plot three and the adjoining dwelling to the east. There are no issues with regard to maximum density as provided for in the CDP. The dwelling as proposed although of considerable size, (the total floor area excluding that of the garage being 609 square metres) is nevertheless considered consistent with the established pattern and lower density of surrounding development.
- 7.2. Based on review of the plans for the previously permitted dwellings and the assessments and conditions attached to prior grants of planning permission, it is

considered reasonable that the current proposal to be accepted, notwithstanding the single storey restrictions provided for in section 11.2.8 of the CDP. The dwelling although substantial, is considered, due to the level below that of the road, the footprint within the site and the form and heights of the proposed dwelling, to come within the capacity of the site. The proposed development would not have adverse impact in views from the public road on approach from either direction or from the road frontage, along the boundary of which there is stone walling (which can be supplemented by evergreen planting) without undue adverse impact on the visual amenities of the area or on the established pattern and character of the existing area along the south side of Knocknacarra Road at Gentian Hill.

- 7.3. As such, it is considered reasonable that a flexible approach be taken with regard to the application of the single storey height restriction in section 11.2.6 of the CDP in that in the case of the subject proposal, the restriction is somewhat unwarranted it is accepted that it has been established that the dwelling height, mass and form would not have adverse visual impacts or negative effects on the amenities and characteristics at this sensitive location. The Board could consider invoking its power to grant permission in contravention of the CDP provision as to the single storey limit in section 11.2.6 to this end.
- 7.4. There are no concerns as to overlooking, overshadowing or overbearing impact that would affect amenities of the surrounding residential properties or with regard to the site layout, private open space provision and on-site parking and access arrangements.
- 7.5. In view of the foregoing, it is considered that the proposed development is acceptable and recommended that the appeal be upheld. However, given the sensitivity of the site location and the considerable size of the proposed dwelling and its footprint it would be advisable for exempt development entitlements to be omitted by condition so as to allow for further review, should additional development be considered at a future date.
- 7.6. **Environmental Impact Assessment Screening.**
- 7.7. Having regard to the scale and nature of the proposed development and its location in a serviced suburban area in the city, 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.

**7.8. Appropriate assessment screening.**

7.9. An appropriate assessment screening report was lodged with the planning authority at application stage which has been consulted for the purpose of screening.

7.9.1. The site is in the western suburbs of the city characterised primarily by low density residential development and a caravan park and a golf club and a path between Knocknacarra and Salthill. The project is construction of a large two storey house and garage on an amalgamation of two plots within a previously permitted development of three dwellings on three plots, the dwelling on Plot No 3 now being part constructed.

7.9.2. The southern end of the site overlaps the boundary of the Galway Bay Complex SAC (00268) along the shore of Galway Bay and the Galway Bay SPA (04031`) is circa forty metres from the site.

7.9.3. There are a further nine other European sites located within the 15 km zone of influence of the site location. The Lough Corrib SAC (000297) is circa four kilometres from the site location and the Lough Corrib SPA (004041) is circa five kilometres from the site location. These nine European sites can be screened out due to distance and lack of source pathways linkage or connectivity to habitats of species of the sites having regard to their conservation objectives and qualifying interests.

7.9.4. With regard to the Inner Galway Bay SPA (004031) and Galway Bay Complex SAC There are thirteen Annex 1 habitats and two Annex 2 species which are qualifying features of conservation significance for the SAC comprising several habitats and wildlife species. There are several Annex 1 bird species for the SPA, Galway Bay being an important ornithological site supporting winter birds of national and international significance.

7.10. Potential threats would be of disturbance to species or habitat loss or fragmentation arising from reduced water quality due to contamination and interference with ecology supporting conservation objectives and qualifying interests of the European sites, especially the ornithological species in the Inner Galway Bay SPA.

7.11. The area for the proposed works is outside of the boundary of the SAC.

Construction including site preparatory works is to be in accordance with best practice as provided for construction and construction traffic management within a construction management plan. Foul water emanating from the development at operational stage is to be disposed of via the public sewer network to the Mutton Island Treatment Plant which there is sufficient capacity to accept effluent from the development. Stormwater is to be collected and disposed of within the site via a maintained an interceptor/silt trap and attenuation/percolation system.

7.11.1. Taking into account the scale, nature and size of the project alone, in combination with the Galway City Development Plan and existing and permitted developments for which appropriate assessment or appropriate assessment screening has been carried out, there are no predicted in combination effects that have potential for adversely affect the European sites. Therefore, Potential for likely significant effect of the project alone or in combination with the other plans and projects in the vicinity on the SPA and SAC in view of their conservation objectives can be fully eliminated.

7.11.2. Having regard to the, the location of the site, which is on serviced land urban land, and, to the nature and scale of the proposed development, 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. It can be concluded that a Stage 2 appropriate assessment is not required.

#### 7.12. **Recommendation**

7.13. Given the foregoing, it is recommended that the appeal be upheld, that the planning authority decision be overturned, and that permission granted based on the reasons and considerations and the conditions set out below.

### 8.0 **Reasons and Considerations**

Having regard to the planning history and existing and permitted development, to the ground level within the site relative to the public road and to the scale, form, massing and heights for the proposed dwelling, it is considered that, subject to compliance with the conditions set out below the proposed development would not seriously

injure the residential amenities of adjoining properties or the visual and natural amenities of the area and would be in accordance with the proper planning and sustainable development of the area.

## 9.0 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 submitted on the 27<sup>th</sup> August, 2021 and 1<sup>st</sup> October, 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. Prior to commencement of development a Construction Management Plan shall be submitted and agreed in writing with the planning authority. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures, disposal of construction waste and a scheme for dust and dirt control.

**Reason:** In the interest of amenities and public safety.

3. 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 any of the proposed dwellinghouses without a prior grant of planning permission. No antennae or satellite dish or dishes, or other plant or equipment shall be erected on the roof of the dwellings without a prior grant of planning permission.

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

4. A schedule and appropriate samples of all materials to be used in the external treatment of the development, to include external finishes to the dwellings, driveways and car parking areas shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** To ensure an appropriate standard of development.

5. The development and detailing of the internal and external boundary walls shall be restricted as follows:

- (a) The northern boundary stone wall abutting the Knocknacarra Road shall be retained and not be increased in height.
- (b) The dividing walls between sites shall be rendered and capped or as otherwise agreed in writing with the planning authority.
- (c) The details of all other boundary finishes and heights shall be submitted to the planning authority for agreement prior to commencement of development.

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

6. A detailed planting and landscaping scheme and schedule of works to include details for all site boundaries shall be submitted to agreed in writing with the planning authority prior to commencement of the development. It shall be implemented under the direction of a suitably qualified person who shall submit a completion of works certificate to the planning authority following completion. Planting along the inner side of the northern front boundary on Knocknacarra Road northern boundary landscaping along the northern boundary, shall be maintained at or below the height of the boundary wall. Existing planting along the western boundary shall be protected throughout the entirety of the construction period.

**Reason:** In the interest of visual and natural amenities of the area.

7. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. Full details of surface water drainage arrangements including attenuation measures, shall be submitted to the planning authority for written agreement prior to commencement of development.

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

8. All service cables associated with the proposed development shall be run underground within the site. No plant or equipment shall be mounted on or protrude above the roofs, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of orderly development and the visual amenities of the area.

9. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion and maintenance of roads, footpaths, watermains, drains, public open space and other services required in connection with the development, coupled with an agreement empowering the planning authority to apply such security or part thereof to the satisfactory completion or maintenance of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be determined by An Bord Pleanála.

**Reason:** To ensure the satisfactory completion of the development.

- 10 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

**Jane Dennehy**  
Senior Planning Inspector  
25<sup>th</sup> February, 2021