



An
Bord
Pleanála

Inspector's Report ABP-313450-22

Development	Change of use of shed/store for use as a self contained dwelling unit and use of ground floor extension as a granny flat.
Location	Knockaphunta, Castlebar, Co. Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	211050
Applicant(s)	Niall Reilly & Anna Ilott.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions.
Type of Appeal	First Party v Conditions
Appellant(s)	Niall Reilly & Anna Ilott.
Observer(s)	Jarlaith McHale & Margaret Fitzgibbon.
Date of Site Inspection	8 th February 2023.
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a dwelling located within a residential area to the southwest of Castlebar Town Centre. The appeal site has a stated area of .147 hectares and is occupied by a substantial two storey over basement dwellinghouse of recent construction with a single storey annex to the rear and southern side of the dwelling. It is apparent that the construction of the dwelling involved significant excavations on the site to provide for the basement level Residential dwellings adjoin to the north and south whilst *Teach Aisling* a residential HSE care facility is located to the east. Dwellings in the vicinity are of mixed character, design and age. There are a number of Institutional Uses in the vicinity including Galway Mayo Institute of Technology and Mayo General Hospital to the northeast, Lough Lannagh Holiday village to the north.

2.0 Proposed Development

- 2.1. The application as initially submitted involved change of use of the shed / store (basement level of the dwelling) as a self-contained dwelling unit and use of the ground floor extension¹ as a granny flat. During the course of the application to the local authority and specifically in response to a request for additional information and clarification of additional information (also outlining local authority concerns regarding multiple dwelling units on the site) the applicant revised the proposal to use of the basement store as a self contained unit and use of the single storey extension as a shed.

3.0 Planning Authority Decision

3.1. Decision

By order dated 5th April 2022 Mayo County Council issued notification of the decision to grant permission and 4 conditions were attached including the following:

2 “The main dwelling house and ‘self-contained unit’ on the lower ground level shall be retained in single ownership and shall not be sold or let separately. The self-

¹ Structure referenced as ground floor extension coincides with basement level of the dwellinghouse.

contained unit shall be occupied only by members of the immediate family of the occupier of the main dwellinghouse.

Reason: In the interest of proper planning and development.

3. The external garage / shed shall be used as a private domestic garage / shed and shall not at any time be used for agricultural, industrial, or commercial purposes or converted for human habitation.

Reason: In the interest of residential amenity.

4. The front boundary wall, garden area and vehicular entrance shall be constructed in accordance with the site layout plan submitted to Mayo County Council on 10/03/2022. One vehicular entrance is permitted as granted under P19/38.

Reason: In the interests of visual amenity.”

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial planner's report outlined concerns with regard to the provision of multiple dwelling units on the site. It was indicated that only one self-contained unit / granny flat would be considered on the site.

A subsequent request for clarification of further information sought floor plans and site layout to support the revised proposal and details of landscaping provision and single vehicular entrance details as per original permission.

Final report recommends permission as per subsequent decision.

3.2.2. Other Technical Reports

None

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

Submission from Jarlath McHale, Mount Gordon, Westport Road Castlebar outlines concerns regarding overdevelopment, non-compliance with permission as granted. Concern regarding potential for multiple independent dwelling units. Two vehicular entrances are inappropriate. Other concerns regarding traffic safety and servicing sewerage capacity, access issues, flooding and fire safety.

Cathal and Johanna Kearney, The Glebe, Mount Gordon Castlebar. Application would be better described as permission to retain. Residential unit on the boundary is inappropriate. Traffic and road safety. Lighting and ventilation to basement unit. Servicing and capacity issues.

4.0 Planning History

P19/38 Permission granted for dwellinghouse on 9/5/2019.

5.0 Policy Context

5.1. Development Plan

The Mayo County Development Plan 2022-2028 and Castlebar Town and Environs Development Plan 2008-2014 as extended refer.

I note that the Draft Castlebar Local Area Plan is currently on public display from Tuesday 28th February 2023 – Tuesday 11th April 2023.

Within the Castlebar Town and Environs Development Plan 2008-2014 the site is within an area zoned Objective A Existing Residential Infill. The objective is “*To protect, preserve, improve and develop existing residential area, to provide for appropriate infill residential development, to provide for new and improved ancillary services and to provide for facilities and amenities incidental to those residential areas.*”

HP 9 is the Policy To facilitate the elderly and smaller family units by facilitating the development of ‘Granny Flats’, apartments and condominiums in higher density

areas subject at all times to proper planning and sustainable development of the area.

At 14.7.2 Granny Flats.

“The demand for self-contained residential units on the site of, and attached to, existing dwellings is recognised by the Planning Authorities as fulfilling a necessary role. In order to protect residential amenities the following considerations will be taken into account in assessing such proposals:

The existing density of development and whether the site is adequate to accommodate a second dwelling unit.

The floor area of the unit shall not normally exceed the equivalent of 25% of the floor area of the existing house.”

Within the Mayo County Development Plan 2022-2028 I note Town and Village Housing Objective TVHO 11 Buildings which are ancillary to existing town or village dwelling(s), such as self-isolation units/granny flats/independent living unit or remote working office unit will be considered on their individual merits, subject to compliance with the criteria outlined in Section 4.15 of Volume 2 (Development Management Standards) of the Plan.

4.15.2 Granny Flats / Independent Living Units Granny Flats/ Independent Living Units maybe considered separate to the existing house on site, subject to not exceeding a floor area of 60m² . Such units shall be single storey only. Any larger units shall be attached as an extension to the existing house on site. The design of such structures shall be in accordance with the provisions of Section 4.15.4.

I note within the Draft Castlebar Town & Environs Local Area Plan 2023-2029 the site is within an area zoned Existing Residential. The objective LUZ5 Existing Residential To protect and improve the amenity and character of existing residential areas.”

HSCO 1 “Support, promote and facilitate the appropriate consolidation, densification and/or redevelopment of brownfield and infill sites for residential uses

within the footprint of the existing built up area, where appropriate, including living above the shop opportunities.”

5.2. Natural Heritage Designations

There are no designated sites in the vicinity of the site.

The closest such site which is circa 6km to the north is the River Moy SAC site code 002298, while the Clew Bay Complex SAC side code 001482 is within approximately 16km to the west.

5.3. EIA Screening

Having regard to the minor nature of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

This first party appeal is against Condition 2 solely. Grounds of appeal are summarised as follows:

- Condition 2 is unreasonable and unnecessary.
- Stated reason for the condition (In the interest of proper planning and development.” is not explained nor assessed in the planner’s report.
- Site is large and more than sufficient to accommodate an additional dwelling.
- Nearby permission 16/940 granted for subdivision of plot to the south of the appeal site and location of a HSE residential building in the estate shows suitability of location for multiple units.
- Commercial enterprise being operated from neighbouring residence.

- HP 9 of the Castlebar and Environs Development Plan allows such development.
- Applicants have a legal if not constitutional right to rent a room or portion of the house.
- Proposal will go towards meeting the significant need for rental accommodation in this area.

6.2. **Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

6.3. **Observations**

Observations are submitted by Jarlaith McHale & Margaret Fitzgibbon.

- Welcome the decision of Mayo County Council to authorise only one self-contained unit with the stipulation that it be used only for family members.
- Application arose following third party concerns regarding unauthorised development.
- Application site is overdeveloped.
- Each home on this cul de sac has been developed by individual owners and is not an estate. HSE residence is not comparable.
- Proposal is not in keeping with the neighbourhood.
- Failure to provide landscaping and provision of two entrances gives rise to traffic hazard.
- Concern regarding precedent for further subdivision.
- Concerns regarding sewage capacity.

7.0 Assessment

7.1. Section 139 of the Planning and Development Act 2000 as amended provides that where an appeal is made to the Board against only a condition or conditions of a permission and where the Board is satisfied that a de novo assessment of the appeal is not required, the Board may issue a direction to the Planning Authority relating to the attachment, amendment, or removal of the condition. In the case of the current appeal against condition 2 of the decision, I am satisfied that the appeal accords with the criteria of Section 139 and therefore I restrict my assessment of the appeal to condition 2 only.

7.2. Condition 2 is as follows:

“The main dwelling house and ‘self-contained unit’ on the lower ground level shall be retained in single ownership and shall not be sold or let separately. The self-contained unit shall be occupied only by members of the immediate family of the occupier of the main dwellinghouse.

Reason: In the interest of proper planning and development.

I note that Section 14.7.2 of the Castlebar town and Environs Development Plan 2008-2014 recognises the role of self-contained residential units attached to existing dwellings noting the relevant considerations to be taken into account regarding site capacity and issues of scale. The proposed ‘self contained unit’ relates to the basement level of the permitted floor area and the overall site which extends to .147 hectares is adequate to cater for the proposed development. I can find no basis for the restriction of use to a family member in terms of development plan policy and I would concur with the first party that the purpose and reasoning for this condition is entirely unclear. Given the scale and nature of the development the issue of multiple ownership does not arise and I consider that the condition fails in the basic criteria test in terms of being necessary and reasonable. I conclude therefore that the condition is not warranted. Accordingly, I recommend that the Board advise the Planning Authority to omit condition 2.

- 7.3 As regards appropriate assessment having regard to the minor nature of the proposed development and location within the serviced urban area and separation distance to the nearest European site, no appropriate assessment issues arise and it is not considered that the 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

It is recommended that the Planning Authority be directed to remove condition 2 for the reasons and considerations hereunder.

Reasons and Considerations

Having regard to the nature and scale of the proposed development and to the location within a serviced urban area and to the pattern of development in the area and the provisions of the Castlebar Town and Environs Development Plan 2008-2014 as extended and Mayo County Development Plan 2022-2028, it is considered that condition number 2 restricting occupation to members of the immediate family of the main dwelling is not warranted nor necessary in the interest of proper planning and sustainable development.

Bríd Maxwell
Planning Inspector

24th March 2023