



An
Bord
Pleanála

Inspector's Report

ABP-314203-22

Development	Construction of extension, alterations and all associated site works
Location	1 Father Griffin Avenue, Galway City, Co. Galway
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	2240
Applicant(s)	Noel & Roisin Howard
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Tanya & James Kilraine
Observer(s)	Gerry & Ann O' Gorman
Date of Site Inspection	29 th November 2022
Inspector	Ian Campbell

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of c. 0.08 ha. and is located at 1 Father Griffin Avenue, an established residential area c. 1 km south-west from the centre of Galway/Eyre Square. The appeal property occupies a corner site at the junction between Sea Road and Father Griffin Avenue. St. Pauls Road, a narrow laneway providing access to neighbouring dwellings, is located to the south-east of the appeal site.
- 1.2. The appeal site accommodates a detached dormer style dwelling with a stated floor area of c. 187 sqm. The appeal site is bound by a stone wall and a vehicular access is situated to the front of the site, off Father Griffin Avenue. Dwellings in the vicinity of the appeal site are predominately two storey. There is a recently constructed 3 storey dwelling to the north of the appeal site.

2.0 Proposed Development

- 2.1. The proposed development (as amended in response to a request for further information) comprises;
 - Alterations and extension of existing dwelling, specifically;
 - provision of additional storey, increasing ridge height by c. 2 metres, with roof lights on front and rear roof slopes;
 - demolition of garage to side;
 - construction of single storey extension to rear – positioned flush to the rear site boundary at its closest point.
 - construction of store to side;
 - floor area of extended dwelling c. 330 sqm;
 - external finishes comprise slurried brick (white) for the external walls, natural slate for the roof and charcoal coloured aluminium windows with black charred timber opening vents.
 - Widening of vehicular entrance.
- 2.2. The planning application was accompanied by the following documentation;

- Shadow Study:
- Conservation Appraisal:
- Landscape Plan:
- Design and Access Statement.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to the decision of the Planning Authority to GRANT permission for the proposed development, the Planning Authority requested Further Information.

3.1.1. Further Information was requested on the 22nd April 2022 as follows:

- Item 1 - Justify design/material finishes and amend Conservation Appraisal to address visual impact.
- Item 2 - Set ground floor extension (accommodating the study and utility/boot room) back from the rear site boundary.
- Item 3 - Submit revised proposal to address potential overlooking from above ground windows.
- Item 4 - Confirm private open space provision.
- Item 5 - Confirm retention of trees on the site.
- Item 6 - Confirm specification of windows.

3.1.2. Further Information submitted on the 13th June 2022 as follows:

- Item 1 - Slurried brick proposed in lieu of charred timber cladding.
- Item 2 - Applicant contends that;
 - the part of proposed single storey extension situated along rear site boundary will not result in visual dominance given the extent to which it projects above the rear boundary wall, and its height relative to the existing garage at this location.
 - The infill dwelling to rear of No. 41 Sea Road has a third floor terrace and is more dominant compared to the proposed development.

- The proposal is to be constructed off new foundations and will therefore not affect the structural integrity of boundary wall.
- Pulling the extension back from the boundary wall would render the area between inaccessible.
- By way of concession, the covered area above the bin store has been reduced.
- Item 3 - First floor window has been relocated from the rear elevation to the side elevation. The second window at first floor level on the rear elevation serves a stairwell. A sectional drawing indicates that overlooking from this window will not be possible.
- Item 4 - c. 830 sqm of private amenity space is provided, exceeding 50% of the floor area of the dwelling.
- Item 5 - Landscape report and revised site plans submitted indicating trees which are to be retained/removed.
- Item 6 - Windows to comprise charcoal coloured aluminium frames with charred black timber opening vents. Louvres have been omitted.

3.2. Decision

The Planning Authority issued a Notification of Decision to **Grant** Permission on the 30th June 2022, subject to 15 no. conditions. The following conditions of note;

C2 - the ground floor extension accommodating the study and utility/boot room shall be set back 0.5 metres from the rear site boundary.

C4 - works be supervised by an engineer, in particular works to the rear site boundary.

C8 – roof light on north-east elevation to comprise obscure glass.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The first report of the Planning Officer includes the following comments;

- Additional height can be absorbed on the site and the proposal can be assimilated into the streetscape.
- The use of charred timber has potential to negatively impact the character and setting of the Architectural Conservation Area.
- There is a deficit in the Conservation Appraisal with regard to visual impact.
- First floor windows potentially result in overlooking of No. 41 Sea Road.
- The part of the ground floor rear extension along the rear site boundary gives rise to visual dominance and structural concerns.
- There is a lack of detail in respect of private open space provision within the site.
- It is unclear what trees are to be retained on the site.
- Window specification is unclear.

Further Information recommended.

3.3.2. The second report of the Planning Officer includes the following comments;

- Material finishes and fenestration, as revised, are considered acceptable.
- The proposed rear extension is acceptable subject to it being set back 0.5 metres from the rear site boundary.
- Relocation of first floor window from rear to side elevation is acceptable. To address third party concerns the roof light serving the stairwell should comprise obscure glazing.
- Proposal considered acceptable in terms of private amenity space.
- Subject to the submission of a landscape plan, the proposal is acceptable in terms of the retention of trees within the site.
- The proposed development would not result in adverse impacts on neighbouring property and would contribute positively to the area.
- Development contributions are not required.

The report of the Planning Officer recommends a grant of permission consistent with the Notification of Decision which issued.

3.3.3. Other Technical Reports

Heritage Officer – concerns expressed in relation to the impact of the proposal on the character of the area/Architectural Conservation Area. Amended window proportions and the use of lime render recommended.

3.4. **Prescribed Bodies**

None received.

3.5. **Third Party Observations**

The following is a summary of the main issues raised in the third-party observations received by the Planning Authority;

- Potential impact on the amenity of adjacent property arising from overlooking, overshadowing, overbearance.
- Proposal represents overdevelopment of the site.
- Proposal impacts negatively on the character of the Architectural Conservation Area.
- Inadequate set-backs and private amenity space provided.
- Lack of information in relation to trees on the site.
- Public notices are misleading.

4.0 **Planning History**

Appeal Site

None.

Vicinity of Appeal Site

PA. Ref. 11/243 – Permission GRANTED for a house (permission subsequently granted for amendment to design of house under PA. Ref. 14/241/ABP. Ref. PL.61.244283).

5.0 Policy Context

5.1. Development Plan

5.1.1. The proposed development was considered by the Planning Authority under the Galway City Development Plan 2017-2023 however the Galway City Development Plan 2023-2029 came into effect on the 4th January 2023 and is now the relevant development plan.

5.1.2. The appeal site is zoned 'Residential' (R) under the Galway City Development Plan 2023 – 2029, with an objective '*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*'.

5.1.3. The appeal site is located within the Crescent/Sea Road Architectural Conservation Area.

5.1.4 The provisions of the Galway City Development Plan 2023-2029 relevant to this assessment are as follows:

- 11.3.1 (d) Overlooking
- 11.3.1 (l) Residential Extensions
- Policy 8.2 Architectural Conservation Areas

5.2. Natural Heritage Designations

The appeal site is not located within or close to any European Site.

5.3. EIA Screening

The proposed development does not fall within a class of development set out in Part 1 or Part 2 of Schedule 5 of the Planning and Development Regulations, 2001, (as amended) and therefore is not subject to EIA requirements.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal on behalf of Tanya and James Kilraine, No. 41 Sea Road, against the decision of Galway City Council to grant permission for the proposed development. The grounds of appeal can be summarised as follows:

- In the absence of additional mitigation, the proposed development would adversely affect the amenity of No. 41 Sea Road, resulting in the depreciation of same.
- The proposal is more accurately described as a replacement house. The development description does not reflect this. The first party has not submitted a structural survey of the house. The proposal should be invalidated on this basis.
- Concerns in relation to potential overlooking of the rear garden of No. 41 Sea Road and its internal living area from the stairwell window. Potential overlooking will be exacerbated by the removal of 2 no. mature trees from the site. This window should be comprised of obscure glass.
- As permitted, a set-back of 0.5 metres would be inadequate to address any structural issues with the site boundary, and should be increased to 1 metre.
- The proposed development would result in overshadowing of the private amenity space of No. 41 Sea Road. The shadow study submitted by the first party is inadequate, does not include September, and indicates that adverse overshadowing of No. 41 Sea Road will occur as result of the proposed development.

6.2. Applicant Response

The applicants' response can be summarised as follows:

- Efforts were made to communicate details of the proposal with neighbours.
- The rooflight on the north-east elevation serves a shower, does not result in overlooking and as such Condition No. 8 is unnecessary.

- Given the design of the staircase, overlooking is not possible from the window serving the stairwell, as demonstrated in the section and CGIs submitted. Providing obscure glazing to this window would be excessive, and determinantal to the amenity of the house.
- The photograph submitted by the appellants to indicate the extent of overlooking misrepresents the degree of overlooking given the location from where it has been taken. The proposal will reduce the degree of existing overlooking, by removing a window from this location.
- All trees along the rear site boundary are to be retained. The trees which are to be removed will not contribute to overlooking.
- The first party is prepared, as required by Condition 2, to reduce the extent of the proposed ground floor extension, setting it off the rear site boundary by 0.5 metres.
- As indicated in the shadow study, the proposed development will result in minimal overshadowing. The periods indicated in the study are typical for a shadow study. The main shadow effect is caused by three storey dwelling in the former rear garden of No. 41 Sea Road.
- The first party is seeking to maintain as much of the existing dwelling as possible, the proposal does not represent full demolition, and thus is not a replacement dwelling.

6.3. **Planning Authority Response**

The Planning Authority have submitted a response in respect of the third party appeal submission stating that the majority of issues raised in the third party appeal have been considered.

6.4. **Observations**

2 no. observations have been received from Gerry and Ann O' Gorman, No. 37 Sea Road (dated 15th August 2022 and 24th September 2022). Issues raised may be summarised as follows;

- The proposed development is not in keeping with the area and is imposing.

- The examples cited by the first party in photographs are not located on the main street and are hidden from view.
- Reference made to a recently constructed dwelling located on St. Pauls Avenue potentially creating a precedent for contemporary design within the Architectural Conservation Area.

6.5. Further Responses

The third party has submitted a response to the first party submission, specifically;

- Communication in relation to the proposal was tokenistic.
- Condition No. 8 should remain. The first party cannot appeal Condition No. 8 as the time to do so has passed. The CGI's submitted by the first party substantiates the contention that overlooking will occur from the window serving the stairwell. A condition requiring this window to comprise obscure glass should be imposed by the Board.
- Reference to a bathroom window in establishing a baseline for overlooking is misleading.
- The requirement for a condition setting the rear extension off the rear site boundary remains.
- The landscape plan does not reflect the setting back of the rear extension. A 1 metre set back would facilitate the establishment of a hedge, addressing security concerns in having to provide a set back off this boundary.
- The first party have not prepared a more detailed shadow study and it is contended that a shadow study should be prepared in accordance with 'Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice'. The three storey building does not overshadow the appellants' property.
- Development description is misleading with reference to the extent of the dwelling to be retained and it is unclear if the Board can make a decision on the proposal.
- Suggested amendments proposed, including, the requirement for a 1 metre set back between the rear site boundary and the proposed extension; the

requirement for hedging to be provided along the entire eastern site boundary, and that the window serving the stairwell and rooflight be comprised of obscure glazing.

7.0 Assessment

7.1. I consider the main issues in the assessment of this appeal are as follows:

- Impact on Residential Amenity.
- Impact on Visual Amenity.
- Impact on Architectural Conservation Area.
- Other Issues.
- Appropriate Assessment.

7.2. Impact on Residential Amenity

7.2.1. The third-party raises concerns in relation to the impact of the proposed development on the residential amenity of No. 41 Sea Road, specifically in relation to overlooking, overshadowing and overbearance. I will assess each in turn.

7.2.2. In relation to overlooking, the third party contends that the first floor stairwell window on the rear elevation of the appeal property, which is located c. 8.5 metres from the rear site boundary, will overlook the garden and living area of No. 41 Sea Road. Section 11.3.1 of the Galway City Development Plan 2023-2029 provides that 'residential units shall generally not directly overlook private open space or land with development potential from above ground floor level by less than 11 metres, or a greater distance than 11 metres in developments exceeding 2 stories'. Section 11.3.1. also makes provision for design solutions to be considered in cases where the separation distance is less than 11 metres. The first party contends that the design of the staircase restricts overlooking from the window serving the stairwell, and the first party has submitted sections and CGI's demonstrating the extent of views which will be possible from this window from various angles of vision within the dwelling. Having reviewed this information I do not consider that this window would afford clear views of the appellants' property. In addition, I note that this window serves a stairwell, which

in my opinion does not result in the same potential for overlooking as a bedroom or living area. I do not therefore consider that this window would result in significant overlooking of the appellants' property. The third party also expresses concerns in relation to potential overlooking of No. 41 Sea Road from the rooflight on the rear roof slope of the dwelling. I note that this rooflight serves a shower on the first floor and is positioned 3 metres above the finished floor level of the first floor. As such I am satisfied that there would not be a loss of privacy to the appellants' property arising from the rooflight. Furthermore, I do not consider it necessary to require this roof light to be comprised of obscure glazing. In summation, I do not consider that the proposed development would result in significant overlooking of No. 41 Sea Road, or any adjacent property. I consider that the proposal accords with Section 11.3.1 of the Galway City Development Plan 2023-2029.

7.2.3. Regarding overshadowing, the first party has submitted a shadow study in respect of the area immediately adjoining the appeal site. The study examines the impact of the proposed development for the periods of 21st March, 21st June and December 21st, and for the times of 0900 hours, 1200 hours, 1430 hours and 1600 hours for March and June, and 0900 hours, 1200 hours and 1430 hours for December. I consider this range to be acceptable in terms of providing a representation of overshadowing. Having regard to the scale, height and design of the proposed development, and to the shadow study submitted I do not consider that the proposed development would give rise to significant overshadowing of No. 41 Sea Road, or any adjacent property. Based on the shadow study I note that a degree of overshadowing currently exists from the dwelling on the appeal site and the site boundaries.

7.2.4. In relation to overbearance, noting the separation distance between the appeal property and the extension to same, and No. 41 Sea Road, to the scale and design of the proposed rear extension, and the extent of the increase in the ridge height of the appeal property, the proposed development would not in my opinion result in significant overbearance of No. 41 Sea Road, its amenity space, or any adjacent property in the vicinity. Condition No. 2 of the Notification of Grant of Permission issued by the Planning Authority requires part of the proposed rear extension to be set back 0.5 metres from the rear site boundary. I have considered the concerns raised by the appellants' in respect of this element of the proposal and the submission of the first

party and having regard to the scale and height of this element of the proposal I do not consider that the provision of a set-back is justified on amenity grounds. Regarding the potential impact of this part of the extension on the structural integrity of the boundary wall, I note the submission of the applicant to the Planning Authority in response to the further information request on this issue, specifically that the extension is to be constructed off new foundations and will therefore not affect the structural integrity of boundary wall, and that pulling the extension back from the boundary wall would render the area between inaccessible. On balance I consider that the proposed rear extension may be constructed flush to the rear site boundary, as proposed. The Planning Authority considered that works on the site should be overseen by an engineer however I note that the proposed extension is to be constructed within the confines of the appeal site and that domestic extensions are commonly constructed with nil distance to party boundaries, and as such I am not satisfied of the requirement to have an engineer to oversee works. Furthermore, I consider that works to, or affecting a party boundary are civil issues, to be resolved between the applicant and appellant having regard to the provisions of Section 34 (13) of the Planning and Development Act 2000, as amended, and as such considerations of this nature are outside the scope of this appeal.

7.3. Impact on Visual Amenity

- 7.3.1. Having regard to the detached nature of the dwelling and its location on a corner site, the variation in building typology in the vicinity, and the scale, height and design of the proposed development, I do not consider that the proposal would represent a discordant feature in the streetscape or would result in significant adverse effects on the visual amenity of the area. Condition No. 3 of the Notification of Decision to Grant Permission provides that the dwelling is finished in white nap plaster. In my opinion slurried brick as proposed by the first party, or nap plaster would be equally appropriate and should the Board be minded to grant permission for the proposed development a condition providing for either finish should be attached.

7.4. **Impact on ACA**

- 7.4.1. The observers to the appeal express concerns in relation to the impact of the proposal on the character of the Crescent/Sea Road Architectural Conservation Area. Having considered the Conservation Appraisal, and noting the design of the proposal, I do not consider that the proposed development would result in significant impacts on the built heritage of the area, in particular on the character of the Crescent/Sea Road Architectural Conservation Area. I consider the proposed development to be responsive in the context of the sensitivity of the site and the Crescent/Sea Road Architectural Conservation Area, and in my opinion the proposal will add a degree of visual interest to this location. I consider that the proposed development would be in accordance with Policy 8.2 of the Galway City Development Plan 2023 – 2029 which seeks to *‘ensure that developments within an Architectural Conservation Area respects and enhances the character and special interest of the ACA’*.

7.5. **Other Issues**

7.5.1. Development Description

The third party raises issues in relation to the adequacy of the development description contained in the public notices. In terms of procedural matters, I note that this was deemed acceptable by the Planning Authority and I am satisfied that this did not prevent the concerned party from making an observation. The above assessment represents my de novo consideration of all the planning issues material to the proposed development.

7.5.2. Depreciation of Property

The third party contends that the proposed development would result in the devaluation of No. 41 Sea Road. Having regard to the assessment and conclusions set out above, I am satisfied that the proposed development would not seriously injure the amenities of No. 41 Sea Road to such an extent that would adversely affect the value of property.

7.5.3. Development Contributions

I note that domestic extensions to dwellings are subject to a 100% reduction in development contributions under the Galway City Development Contribution Scheme, 2020 – 2026 and as such I do not consider that the proposal would attract a development contribution, should the Board be minded to grant permission for the proposal.

7.6. **Appropriate Assessment**

7.6.1. Having regard to the nature and limited scale of the proposed development, to the existing developed and serviced nature of the site and the lack of a hydrological or other pathway between the site and European sites, it is considered that no Appropriate Assessment issues arise and that the proposed development would not be likely to have a significant effect either individually or in combination with other plans or projects on any European site.

8.0 **Recommendation**

8.1. Having regard to the above it is recommended that permission is granted based on the following reasons and considerations and subject to the attached conditions.

9.0 **Reasons and Considerations**

9.1. Having regard to the residential land use zoning of the site, to the prevailing pattern and character of existing development in the vicinity and to the nature and scale of the proposed development, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential or visual amenities of the area or of property in the vicinity, or negatively affect the character of the Crescent/Sea Road Architectural Conservation Area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be carried out completed in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars submitted to the Planning Authority on the 13th June 2022, 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 with the Planning Authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.</p> <p>Reason: To restrict the use of the extension in the interest of residential amenity.</p>
3.	<p>Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the detailed requirements of the Planning Authority for such works and services.</p> <p>Reason: In the interest of public health.</p>
4.	<p>External wall finishes shall comprise slurried brick (neutral colour) or render (neutral colour), unless otherwise agreed in writing with the Planning Authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
5.	<p>Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.</p>

	Reason: In order to safeguard the residential amenities of property in the vicinity.
6.	<p>Construction and demolition 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 off-site disposal of construction/demolition waste.</p> <p>Reason: In the interests of public safety and residential amenity.</p>

Ian Campbell
 Planning Inspector

7th March 2023