



An
Bord
Pleanála

Inspector's Report

ABP-317804-23

Development	Retain first floor decking to rear of dwelling.
Location	Valhalla, Barna Road , Galway.
Planning Authority	Galway City Council
Planning Authority Reg. Ref.	23153
Applicant(s)	Edwina Maloney
Type of Application	Retention
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Elizabeth and Clodagh Connolly. Emer Kearns
Observer(s)	None
Date of Site Inspection	14/12/23
Inspector	Darragh Ryan

1.0 Site Location and Description

- 1.1. The existing dwelling is located to the north side of the R336 on the Barna Road to the west of Salthill. The site has a stated area of .67 ha.
- 1.2. There is an existing detached two storey dwelling on site. The site has its own private car parking area and is enclosed by gates and railings along the front and west side boundaries.
- 1.3. To the rear of the property is the first-floor decking area for retention. The main living accommodation of the dwelling is located at this level.
- 1.4. The appellant party's property, a detached one and two storey house with front and rear gardens, is located to the east of the site. The other appellant party's property, a detached two storey house with front and rear gardens is located at the rear of the application site. The rear of this dwelling is directly opposite the elevated decking area across the rear gardens separated by the boundary.
- 1.5. The site to the west and the application site were originally a single plot for a single dwelling which was subdivided to provide for two separate properties one on this site and the other on the application site. (P. A. Reg. Ref. 04/1049 refers.)

2.0 Proposed Development

- 2.1. A retention permission is sought for the following:
 - Retention of 1st floor Decking to the rear of dwelling and to incorporate proposed raised side screens (2.0m in height above deck level). The area for retention is 39.20m².
- 2.2. Planning permission is sought for the following:
 - Install 2 windows at ground floor level to rear bedrooms on east and west elevation.
 - Remove and replace existing ground floor windows to north elevation with French doors
 - Open double doors in place of existing window from rear of dwelling onto first floor decking area and all associated site works

3.0 **Planning Authority Decision**

3.1. **Decision**

The planning authority issued a Decision to Grant permission subject to 3 conditions:

Condition 2 states:

The side screens to the edges of the terrace/deck shall be provided to all boundaries and shall be erected to a height of 2 meters..... these shall be permanently glazed in obscure glass. The erection of side glazed panels shall occur within 4 months of grant of permission.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The planning assessment of the local authority had regard to the site history and previous assessment of the Inspector and Board on appeal file 312779-22.
- The principle of development is deemed acceptable.
- The insertion of 2 windows to the ground floor level of rear bedrooms should alleviate issues with respect to daylight.
- The proposed screening should be adequate to address issues of overlooking and protect amenity of neighbouring properties.

3.3. **Third Party Observations**

4 Objections and one submission have been made on file. The objections are reflected in the grounds of appeal and shall be summarised under Section 6.0.

One letter of support has been submitted in favour of the proposed development. This was submitted by the occupier of the property to the west of the development for retention.

4.0 Planning History

PA Reg. Ref. 21/380, ABP 312779-22 – ABP split decision- retention of decking refused, permission for double doors at first floor level refused. Permission granted to amend 1st floor layout and to provide a new window opening to be glazed in obscure glazing in the landing area.

The refusal reason states:

“Having regard to the nature and extent of the decking structure.....specifically the depth of the decking from the rear wall of the existing dwelling and the consequent adverse impact on the residential amenity of proposed first floor decking area, would seriously injure the residential amenities of existing dwelling by reason of poor daylight within the two north facing bedrooms and would therefore result in a substandard form of residential amenity...”

PA Reg. Ref 04/1049 – Permission granted following appeal for two, two storey detached houses on site.

PA Reg. Ref 03/964 – Permission refused following appeal for a development of 5 apartments in one block.

5.0 Policy Context

5.1. Development Plan

Galway City Development Plan 2023 -2029

Zoning Objective R - “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”

Section 11.3 General Residential Development Standards & Guidelines

11.3.1 (d) Overlooking

- With regard to domestic extensions, architectural resolutions to prevent overlooking may be considered, where the linear 11m standard is marginally less, and the overlooking impact is reduced through design.

11.3.1 (e) Daylight

- All buildings should receive adequate daylight and sunlight. All habitable rooms must be naturally ventilated and lit and living rooms and bedrooms shall not be lit solely by roof lights. Daylight sunlight and/or overshadowing assessment, utilising best practice tools, may be required to assess the impact of development on the amenity of adjoining properties. The requirement for such assessments will be agreed with the planning authority prior to planning application. In this regard, development shall be guided by the quantitative performance approaches and recommendations under the 'Site Layout Planning for Daylight and Sunlight' (2nd edition): A Guideline to Good Practice (BRE 2011) and BS 8206-2: 2008 – 'Lighting for Buildings – Part 2: Code of Practice for Daylighting' or any updated guidance.

5.2. Natural Heritage Designations

Galway Bay Complex SAC (approximately 100m southeast of the subject site)

Galway Bay SPA (approximately 200m south of the subject site)

5.3. EIA Screening

The proposed development is not within a Class of development outlined Under Schedule 5, Part 1 or 2 of the Planning and Development Regulations. The need for environmental impact assessment can, therefore, be excluded at pre- screening, a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

This is a third-party appeal against the decision of Galway City and County Council to permit the development. There are two appellants on file, the grounds of appeal can be summarised as follows:

6.1.1. Principle/ Precedent

- A grant of permission would set an unnecessary precedent.
- The balcony for retention is contrary to zoning objective R – “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”.

6.1.2. Overlooking/loss of amenity.

- The development will have serious negative impact on standard of living of neighbours due to overlooking.
- The addition of additional screening and trellis will not alleviate issues of overlooking. There is a direct view into no 15 Seacrest from stairs linking the balcony to the garden.
- A balcony has been provided to the front of the dwelling in the original building of the house. This is a south facing balcony, with better amenity and uninterrupted views of Rusheen Bay.
- The balcony is north facing therefore the only purpose of the balcony is entertainment, there is no mention of lighting from the balcony which could cause nuisance and result in additional loss of amenity.
- The appellant asks An Bord Pleanála have regard to previous inspectors report 312779-22 with respect to issues of loss of amenity and devaluation of neighbouring properties.

6.1.3. **Overbearing Impact**

- The development is visible from the rear of neighbouring properties. The development is intrusive and overbearing.
- The provision of direct access through new double doors at first floor level will not reduce nuisance to neighbours.
- The addition of 2m high screening/ obscure glazing will increase the overbearing impact of the structure on neighbouring properties.

6.1.4. **Sunlight/Daylight**

- The installation of 2 windows at ground level to the east and west of the property will not increase natural light into the house. These windows are too close to boundaries with existing tree cover to have any meaningful impact.
- The increased height of screens will result in loss of daylight into neighbouring property.

6.1.5. **Noise disturbance**

- There will be increased level of noise from the decking area with the inclusion of double doors with direct access. The upstairs kitchen is a focal point for a house and this will generate additional noise when doors are opened.
- The large balcony will be ancillary to the primary living spaces of the house and will be used to support living space on daily basis rather than being incidental to the use of the house.

6.2. **Applicant Response**

- The current application is designed to address the specific concerns outlined in Boards decision to refuse permission.
- The Boards assessment had no objection to the principle of first floor decking, it did not consider the decking would have adverse impacts on neighbouring residential amenities.
- Concernes with the amount of daylight into the 2 rear bedrooms of the house, this has now been addressed through the provision of 2 no floor to ceiling clear glazed French doors and 2 new side elevation clear glazed windows.

- Any issues of overlooking can be overcome with the addition of 2m high screens of obscure glazing along the western and eastern boundaries.
- The Sycamore trees that are in situ are entirely appropriate and have been in place for several years, prior to the erection of any decking on site.
- The proposal is in keeping with the pattern of the area, as the living area of the house is at first floor level the decking area will add to the character and form of existing dwelling. In this regard the development is compliant with Section 11.3.1 of the City Development Plan.
- The provision of 2m high obscure glazing is unnecessary along the northern edge of the deck. There is sufficient mature trees around the site to offer screening to surrounding properties.

6.3. Planning Authority Response

- None

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant national and local policy guidance, I consider the main issues in relation to this appeal are as follows:

- Principle of Development/ Precedent
- Impact on Residential Amenity/ Overbearing Impact
- Sunlight/ Daylight into existing dwelling
- Other Matters
- Appropriate Assessment

7.2. Impact on Residential Amenity

7.2.1. Overlooking

As part of this application the applicant proposes to increase the height of the screens with the addition of 900mm of obscure glazing on top of existing glazing to the east and west of the development. As part of the grant of permission the planning authority introduced a condition that this level of screening be extended to the northern element of the decking area to avoid potential overlooking into the dwellings north of the site known as Seacrest Barna Road.

7.2.2. The third party appeal sets out that the addition of screening will have no effect in terms of preventing overlooking. There is a difference in floor levels between the decking area and first floor living/kitchen area, this will require provision of a step which will allow overlooking over the new screening. I disagree with this assertion, 2.0m high screens will offer significant protection to residential amenity for all parties. Any inclusion of a step would not increase the likelihood of overlooking as, this would only increase height up to the maximum of existing internal finished floor level. I consider the proposed addition of obscure glazed screens an appropriate response in a residential setting that will allow for a reasonable level of protection of residential amenity.

7.2.3. The appeal response argues that condition 2 of the planning authority decision be reworded so that the screens on the northern element of the development are not included. The reasons cited are that the screens will prevent surveillance/overlooking of kids play area and distance from rear site boundaries which is in excess of 11m will not cause overlooking into properties to the north. The applicant has provided a photograph that shows mature trees/ screening to the northern most part of the site. I consider the addition of screening to the northern portion of the decking area to be appropriate mitigation measure. The photograph provided by the applicant was taken in the summer period when trees had thick foliage. I consider the planning authorities approach to be correct and will provide an increased level of protection from overlooking of adjoining properties to the north.

7.2.4. Noise

The third party appeals set out that the elevated decking area when in use would be a major source of potential noise nuisance and seriously impact amenity of neighbouring properties as a result.

The previous refusal reason recommended by the Board did not agree with the assertion that the provision of a decking area would generate significant levels of noise as to have a detrimental impact on residential amenity. I do not consider the provision of an external decking area would result in significant levels of noise nuisance greater than any other rear residential space and enjoyment of same.

7.2.5. Overbearing Impact

It is set out within the appeal that the size and scale of the balcony will be visually intrusive and have an overbearing impact on amenity of neighbouring properties. The appellants argue that the scale of the structure and addition of higher screening will result in overshadowing into adjoining properties. The provision of a 4m high barrier would be considered oppressive in the winter months.

I note the site size is considerable for a suburban residential dwelling at .67ha. There is approx. 11m from the decking area to the rear boundary of the house. The proximity to site boundaries is noted at 1.2m and 2.3m. There is significant planting on site, which should interrupt the views from the adjoining properties to the north and east. The decking although of a significant scale is capable of satisfactory assimilation into the rear building line of the dwelling. I do not consider the proposal will be overbearing in terms of impact on adjoining properties.

7.2.6. With respect to overshadowing – I note the earlier assessment of the board that the provision of screening up to 2m in height is not likely to reduce sunlight access into rear gardens of adjoining properties. I consider the provision of obscure glazing in this instance will have limited effect in terms of overshadowing, I am therefore in agreement with initial assessment of overshadowing in this regard.

7.3. **Daylight into existing building**

The primary reason for refusal under 312779-22 by the board was that the development has had a significant detrimental impact on amenity of existing bedrooms to the north of the dwelling house. The retention of the decking area would lead to poor daylight levels within the north facing bedrooms at the rear of the

existing dwelling. Under this application the applicant proposes to install new floor to ceiling window openings onto the eastern and western elevation of the bedrooms and change the rear windows to the north with French doors. It is put forward that this change will allow greater levels of light to enter the dwelling and therefore address the boards primary reason for refusal as set out under 312779-22.

7.3.1. The applicant has not provided any analysis of daylight that currently enters the room or any analysis of how daylight into bedrooms will increase as a result of proposed changes. It is noted that the existing windows are all to the rear northern elevation, where there would be reduced daylight in any case. The addition of windows onto eastern and western elevation should provide a greater degree of daylight compared to existing arrangement. Having regard to the level of detail supplied, I consider the addition of windows to be an appropriate response. The windows will have no impact on amenity of neighbouring properties as they are at ground floor level, where there is already extensive screening.

7.3.2. **Other Matters**

The appellants set out that the granting of retention permission in this instance would result in a devaluation of neighbouring properties. Having set out in earlier points I consider that the proposal is capable of assimilation into the rear building line of the dwelling. I consider that there is adequate screening on site proposed and existing, to prevent serious issues of overlooking. In terms of visual impact, I do not agree that the development is visually obtrusive from the point of view of neighbouring properties. All development is to the rear of the existing dwelling in an established residential area, there is existing mature planting on site that will break the visual line from buildings to the north and east of the development, I therefore do not agree that the granting of permission in this instance will result in a devaluation of properties in the area.

7.4. **Appropriate Assessment**

Having regard to the planning history for the site, the zoning objective, the location of the site on serviced 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.

8.0 **Recommendation**

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 **Reasons and Considerations**

Having regard to the existing pattern of permitted development in the area, to the provisions of the Galway City Development Plan 2023 -2029, and to the nature of the proposed development as submitted, the Board considered that, subject to compliance with the conditions set out below, the proposed development would not give rise to serious issues of overlooking, cause a devaluation in property in the local area and would achieve adequate levels of daylighting for the existing dwelling. 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 and completed in accordance with the plans and particulars lodged with the application, received on the 14th day of August 2023 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.</p> <p>Reason: In the interest of clarity.</p>
----	--

2.	<p>Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision amending or replacing them, the use of the proposed development shall be used solely as ancillary to the adjoining use on site (as specified in the lodged documentation), unless otherwise authorised by a prior grant of planning permission.</p> <p>Reason: In the interest of clarity</p>
3.	<p>The additional glazed panels to be mounted on the existing terrace/decking shall be provided on all boundaries, north, south and east and shall be erected to a height of 2 meters taken from the floor of the terrace/deck, these shall be permanently glazed in obscured glass. The erection of the side glazed panels shall occur within 4 months of the issuing of the Board Order and shall be supervised by a qualified individual, who shall submit a report and photographs for the written agreement of the planning authority certifying their erection.</p> <p>Reason: In the interest of clarity, protection of residential amenity and proper planning and sustainable development.</p>
4.	<p>Construction on site shall be limited to between 0800 hours and 1800 hours, Monday to Friday and between 0900 hours and 1700 hours on Saturday, unless otherwise agreed in writing with the Planning Authority.</p> <p>Reason: In the interest of residential amenity and orderly development</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Darragh Ryan
Planning Inspector

29th of December 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	317804-23		
Proposed Development Summary	Retention of first floor decking, provision of raised screens, installation of 2 no windows at ground floor level, remove and replace existing ground floor windows with French doors, provide double doors onto the decking area		
Development Address	Valhalla, Barna Road, Galway		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		No	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____