



An
Bord
Pleanála

Inspector's Report

ABP 318489-23

Development

Retention of subdivision of property to form a separate dwelling house attached to existing semi-detached dwelling house, including modification of Condition No. 2 of Reg Ref 22/117 to facilitate that subdivision and permission for modifications to existing vehicular entrance and provision of a new vehicular entrance and all associated site development works.

Location

14 Lakeview Road, Greenfields.
Newcastle. Galway.

Planning Authority

Galway City Council.

Planning Authority Reg. Ref.

2360056

Applicant(s)

Paul Dilleen.

Type of Application

Retention & Permission.

Planning Authority Decision

To Refuse Permission.

Type of Appeal

First Party

Appellant(s)

Paul Dilleen

Observer(s)

None.

Date of Site Inspection

April 11th, 2024.

Inspector

Breda Gannon

1.0 Site Location and Description

- 1.1. The site is located at 14 Lakeview Road, Greenfields. Newcastle. Galway. It occupies a corner site adjacent to an open area that provides access to public amenity space to the rear. The site accommodates a two-storey dwelling, with a more recent two-storey extension on its south side. The entrance to the site has been widened and a communal parking area provided. The front and side boundaries are defined by low walls with a higher wall along the rear boundary.
- 1.2. Greenfields lies within the Newcastle area to the northwest of the city centre and is one of a number of established residential estates to the west of the N59. The University of Galway and University College Hospital lie a short distance to the south and are within comfortable walking distance. A bus service connects the area with the city centre and the wider area.

2.0 Proposed Development

- 2.1. The proposed development seeks to retain the extension at the side of the house for use as a separate dwelling unit. Permission is also sought for modifications to the existing vehicular entrance and the provision of a new vehicular entrance to serve the new house.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the development for the following reason:

1. The proposed retention of the proposed change of use to a separate dwelling in lieu of a permitted extension, would be contrary to the Galway City Development Plan 2023-2029, Section 2.6, due to its poor contextual relationship with the established prevailing pattern and architectural symmetry in the vicinity of the site, an established housing estate, in addition it would

contravene materially Condition No. 2 of PI Ref No 22/117, which restricts the permitted extension to be used as part of the main residence.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning officer's report notes the previous planning history and that the applicant has not built the permitted extension to the side of the house but an entirely separate dwelling.

The site is located within the 'Established Suburbs' and the provisions for these areas are set out in Section 3.6 of the development plan. While the potential for smaller infill development opportunities is recognised, it is a requirement that regard be had to the existing pattern of development and that development contribute positively to the urban fabric and the amenities of the area.

The site is located within an existing housing development where the houses have certain design characteristics. It is considered that the current proposal which contains a very narrow frontage, with a two-storey gable element to the front façade, would not have regard to the scale and proportions of existing plots and buildings in the immediate vicinity and would erode the distinctive character of the neighbourhood by its unsympathetic design, which if permitted would be contrary to the development plan policy.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

No submissions.

3.4. Third Party Observations

None.

4.0 Planning History

22/117: Permission granted for the construction of a two-storey extension to the side of the existing dwelling house and to convert the garage to a study.

19/349: Permission refused for the construction of a dwelling house attached to the side of the existing dwelling house on the site.

19/343: Permission refused for the construction of a single storey extension to the rear of the dwelling house, revised site boundary, convert garage to sitting room and widened front entrance.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the **Galway City Development Plan 2023-2029**.

The site is located in an area zoned 'R' with the following 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'.

The site is located within the 'Established Suburbs' of the city (Fig 3.1):

Policy 3.5 Sustainable Neighbourhoods: Established Suburbs

Facilitate consolidation of existing residential development and densification where appropriate while ensuring a balance between the reasonable protection of the residential amenities and the character of the established suburbs and the need to provide sustainable residential development and deliver population targets.

Development Standards and Guidelines are contained in Chapter 11.

5.2. Natural Heritage Designations

The closest European site is Lough Corrib SAC to the west.

6.0 EIA Screening

7.0 Having regard to the nature of the proposed development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

8.0 The Appeal

8.1. Grounds of Appeal

The following summarises the grounds of appeal.

Clarification

- What has been constructed on the site, in terms of the development footprint, scale, height and finished treatment is what was permitted by the planning authority under Reg Ref No 22/17. It is only the internal arrangement that has resulted in physical change and it is that irregularity and the future use of this arrangement which the applicant seeks to remedy.

Material Contravention of Condition No 2 of Reg Ref No 22/117

- The current proposal seeks to address the provisions of Condition No 2 of Ref No 22/17, by seeking permission for the retention of the change of use and subdivision of the property to form a separate dwelling house. This is a perfectly logical and justifiable approach in the context of the existing permission under Ref No 22/117.
- The existence of Condition No 2 does not prohibit or restrict the planning authority from a favourable consideration of this application.
- The nature of the proposed development and its description which refers to 'subdivision' with the intended use 'to form a separate dwelling' and 'modifications to Condition 2' was intentionally stated to address the limitations of use of the development authorised under the permissions and the provisions of Condition 2.

- Having regard to the specific nature of the planning application, the express proposal to modify the previous permission for subdivision and specific modification to condition 2, there is no basis for the council to conclude that the proposed development would 'contravene materially Condition No 2 of PL Ref 22/117' when in fact it is a clear and express intention of the current application to modify the permitted development.

Development would be contrary to Section 2.6 of the Galway City Development Plan due to its poor contextual relationship with the established prevailing pattern and architectural symmetry in the vicinity of the site and established housing estate.

- The applicant contests the legitimacy of this stated reason for refusal on the basis that the development plan does not appear to contain any Section 2.6 upon which the decision refers.
- The building 'structure' to which the proposed development relates was authorised and constructed under the previous planning permission. The scale, form and architectural treatment of the building and its external appearance has been authorised by Galway City Council. There is no physical change to the building (with the exception of a new doorway) that has given rise to an altered 'contextual relationship' resulting in, as suggested, a materially different relationship with the established prevailing pattern of development in the vicinity.
- The use of the structure as a separate dwelling would result in a negligible change to the contextual relationship of the property giving rise to a negligible effect to the prevailing pattern of the estate. This takes into account that the permitted use of the building is a residential extension.
- The proposal does not give rise to any change to the scale, form, height or architectural character of the permitted extension.

Principle of the development and compliance with planning provisions

- The proposal which is intended to increase efficient use of this urban zoned and serviced site for residential use is consistent with the provisions of National Policy and Guidelines as set out in the '*Sustainable Residential*

development in Urban Areas, Guidelines for Planning Authorities' (2009) which supports (Section 5.9) sub-division of dwellings in inner urban areas where there would not be a dramatic alteration to the public character of the area.

- The proposal is consistent with the Policy CDP 1.4 'Core Strategy' of the development plan which promotes compact growth and provision of up to 50% of new housing within existing built footprints and more effective utilisation of under-utilised lands through adaption of existing stock.
- The proposal is consistent with Policy 3.6 'Sustainable Neighbourhoods' and the policy to *'Protect the quality of inner residential areas including Claddagh, Shantalla and Newcastle (to Quincentenary Bridge) by ensuring that new development through consolidation, infill and redevelopment does not adversely affect their character and has regard to the prevailing pattern, form and density of these areas'*.
- The proposal is in compliance with the 'R' zoning provisions that apply to the site, the Development Management Standards in relation to *'Conversion and Subdivision of Dwellings'* and will not result in overlooking. There is adequate open space and the provision of parking and entrance arrangements complies with development plan standards.
- The proposed development would not give rise to any adverse effect on the amenity of the streetscape, its character or to the residential amenity of any adjacent property.

Appraisal of development trends within the estate

- The proposed subdivision of the property for residential use is consistent with the established pattern of development authorised by Galway City Council and An Bord Pleanála.
- Permission was granted by Galway City Council (18/344) and An Bord Pleanála (303867-19) for a two and a half storey dwelling in the side garden of No. 25 Greenfields, c125m south of the site. The circumstances and appraisal of this case are directly relevant to the current application.

- There are other examples (Fig 3) of similar type development granted by Galway City Council including No. 1 Clifton Avenue where permission was granted for the demolition of a house and for the construction of a pair of semi-detached units (10/178). At No. 42 Greenfields Road permission was granted for a granny flat and domestic extension resulting in a new residential unit to the side of the dwelling. The permitted side access arrangement is identical to the current proposal.
- The effect of these infill developments and intensified use of properties for independent residential use has not given rise to any adverse effect to the prevailing character of the estate or to amenity of adjacent properties, or the architectural symmetry of the area.

8.2. Planning Authority Response

No response to the grounds of appeal were submitted by the planning authority.

9.0 Assessment

9.1. Introduction

9.1.1. Having examined all the application and appeal documentation on file, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

9.1.2. I consider that the main issues that arise for determination by the Board in relation to this appeal relates to the following:

- Principle of the development
- Impacts on the amenities of the area.
- Appropriate Assessment.

9.2. Principle of the development

9.2.1. Having regard to the residential zoning objective relating to the site and national and local policy regarding the promotion of compact growth and increased densities in town and cities in suitable locations, I accept that the proposed development is

acceptable in principle subject to compliance with normal planning considerations and the provisions of the development plan.

9.3. Impacts on the amenities of the area

- 9.3.1. There were two previous applications on this site, lodged simultaneously, which were refused permission by Galway City Council. These included a proposal to construct an extension to the rear of the dwelling at No.14 (19/343), the subdivision of the site and construction of a new house attached to the side of No. 14 (19/349).
- 9.3.2. The design of the proposed house included a two-storey front gable feature which was considered inconsistent with the design of existing dwellings in the vicinity. The subdivision of the site to facilitate the new house would have resulted in the erosion of private amenity space associated with the existing dwelling, which was considered by the planning authority to be significantly below development plan standards.
- 9.3.3. Following the refusal of planning permission for the extension to the rear of No. 14, an extension (31.7 m²) was constructed, stated to be exempt from planning permission. Under Reg Ref No 22/117 permission was granted for a two-storey side extension to the house. During the processing of the application issues were raised regarding the internal layout, which was considered would facilitate the subdivision of the dwelling. Revised drawings were submitted showing the ground and first floor integrated with the existing dwelling, forming one residential unit. This was reinforced by Condition No. 2 which required that the existing dwelling and the new extension be used as a single dwelling unit.
- 9.3.4. The applicant is now seeking permission to retain the previously approved extension for use as a separate dwelling unit. The development footprint, scale, height and finishes mirrors that permitted by the planning authority under Reg Ref No 22/17. Having regard to the planning authority's previous decision to grant permission for the structure, which was considered capable of effective integration into the streetscape, it is difficult to accept the planning authority's position that the proposal, which involves no material alteration to the exterior of the building, could be considered to be at variance with the established pattern of development in the area. I do not, therefore, consider that this a reasonable reason for refusal.
- 9.3.5. The substantive issue relates to the change of use. Permission was granted on the basis that the new structure would form an extension to the existing. This was what

the applicant applied for and the development that was assessed by the planning authority under the provisions of the development plan. The boundaries of the site would remain as existing, accommodating an extended dwelling with an acceptable quantum of private open space remaining to the rear.

- 9.3.6. The minimum requirement for private open space provision as set out in section 11.3.1(c) of the Galway City Development Plan is not less than 50% of the gross floor area of the residential unit in the 'Established Suburbs'. The current proposal would result in the subdivision of the site leaving a very small garden to the rear of the house. The area of private open space (43sq m) equates to just 39% of the total floor area of the dwelling which is significantly below that recommended in the development plan and would result in a poor level of residential amenity for residents of the new house. This would set an undesirable precedent for similar development and I consider that permission should be refused on this basis.
- 9.3.7. Parallels cannot be drawn between the current proposal and previous decisions by both the planning authority and An Bord Pleanála, as contended by the appellant. In the case of No. 25 Greenfields (18/344) and An Bord Pleanála (303867-19), which also proposed the erection of a house in a side garden I note that open space in excess of 70 m² was retained for both the existing and the proposed dwelling in compliance with development plan standards.
- 9.3.8. Regarding No.1 Clifton Avenue, permission was granted for the demolition of an existing house and its replacement with a pair of semi-detached dwellings. Commenting on open space provision, the planning officer stated that *'the rear gardens of the proposed dwellings would easily meet the development plan requirements'*.
- 9.3.9. Similarly in the case of No. 42 Greenfields (99/356) planning permission was granted for an extension and a granny flat, but a sizeable area of private open space was maintained for amenity purposes.

9.4. Other matters

- 9.4.1. Condition No. 2 was imposed to control the use of the extension and would not in itself prohibit favourable consideration of the proposal, if it was otherwise considered acceptable and in compliance with development plan standards.

- 9.4.2. The reference to section 2.6 of the development plan can only be construed as a typographical error, as the development was assessed by the planning officer under section 3.6. The reference to a ‘two-storey gable element to the front façade’ is also an error in the report.

9.5. Appropriate Assessment

Having regard to the limited nature and scale of the development and its location within an urban area connected to public infrastructure, and the distance from any European site it is concluded that no Appropriate Assessment issues arise as 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.

10.0 Recommendation

- 10.1. On the basis of the above assessment, I recommend that permission be refused for the development for the reasons and considerations set out below.

11.0 Reasons and Considerations

- 1 It is considered that the retention of the development as proposed would result in inadequate private open space provision for the new dwelling which would result in a poor standard of residential amenity for future residents and would not be in accordance with the open space standards for residential units within the ‘Established Suburbs’ as set out in section 11.3.1 (c) of the Galway City Development Plan 2023-2029. To permit the development would set an undesirable precedent for similar development which would be contrary to the proper planning and sustainable development of the area.
- 2 It is considered that the retention of the subdivision of the property as proposed to form a separate dwelling house attached to the existing semi-detached dwelling house would materially contravene condition number 2 of the permission granted under register reference number 22/177 which restricts the permitted extension to be used only as part of the main residence. The retention of the development would, therefore, be contrary to the proper planning and sustainable development of the area.

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.

Breda Gannon
Planning Inspector

22nd April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP 318489-23		
Proposed Development Summary	Retention of subdivision of property to form a separate dwelling house attached to existing semi-detached dwelling house, including modification of Condition No 2 of Reg Ref 22/117 to facilitate that subdivision and (2) permission for modifications to existing vehicular entrance and provision of a new vehicular entrance and all associated site development works.		
Development Address	14 Lakeview Road, Greenfields, Newcastle. 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)		Yes	No
		No	No further action required
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?			
Yes		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)
			Conclusion
No		N/A	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:** _____