



An
Bord
Pleanála

Inspector's Report

ABP-318959-24

Development	Construction of a house in the side garden of an existing house and ancillary site works
Location	11 Hyde Court, Roscommon, Co. Roscommon
Planning Authority	Roscommon Co. Co.
Planning Authority Reg. Ref.	2360211
Applicant(s)	Brendan White
Type of Application	Permission
Planning Authority Decision	Refusal for 5 no. reasons
Type of Appeal	First Party
Appellant(s)	Brendan White
Observer(s)	Dympna Condon, 12 Hyde Court
Date of Site Inspection	7 th April 2024
Inspector	Bernard Dee

1.0 Site Location and Description

- 1.1. The appeal site is located within an estate called Hyde Court which is located in the SE suburbs of Roscommon town. Hyde Court is a development of 39 no. two storey detached dwellings around an area of grassed public open space. The appeal site itself is located in the SE corner of the estate and is accessed via a short spur road leading from the estate road proper.
- 1.2. The overall site area (blue line) of 11 Hyde Court is not stated but the appeal site (red line) has an area of 0.1ha and is currently occupied by a lawn and trellis fence. The boundaries to the appeal site are comprised of hedges to the NW and NE, the trellis fence to the SW and the existing house on the plot to the SE.

2.0 Proposed Development

- 2.1. The proposed development is comprised of the erection of a two storey, five bedroom house with a GFS of 167m² in the side garden of 11 Hyde Court. It is proposed to access the dwelling via a new entrance off the existing spur road. The proposed dwelling is to be bounded by a block wall to partition the overall site into two housing plots but on the drawings this wall does not appear to extend around the entire mutual boundary of 11 Hyde Court and the land proposed to be within the curtilage of the proposed dwelling.
- 2.2. The design of the two storey house is a standard box shape with a projecting central entrance bay. Rendered walls and a slate type roof are proposed with a permeable pavement driveway to the front (SW) of the house. The footprint of the proposed house measures 10.66m x 8.52m with a maximum ridge height of 8.87m.
- 2.3. The Board should note that there are no windows on the NW elevation which faces towards 12 Hyde Court whose occupant is an Observer to this appeal.

3.0 Planning Authority Decision

3.1. Decision

Permission for the proposed development was refused on 12th January 2024 for 5 no. reasons.

1. The proposed development would give rise to overdevelopment, arising from the subdivision of a residential plot and would be out of character with the existing established pattern of development in the area, which consists of low density residential development on large plots and if permitted would set an undesirable precedent for other similarly inappropriate ad hoc development. The proposed development would be injurious to existing residential amenities and would depreciate the value property in the vicinity and would be contrary to the proper planning and sustainable development of the area.
2. The proposed development by reason of the proposed site layout and overall design concept is incapable of integrating into the setting in which it is proposed. The proposed development would contravene the Roscommon County Development Plan 2022-2028, particularly Development Management Standard 12.6 which seeks to ensure that developments are appropriately designed in terms of their form, density, size and dwelling types within residential areas, such that they contribute to the built character of the area. The proposed development would therefore impact on the visual amenity of the area and would be contrary to the proper planning and sustainable development of the area.
3. The footprint of the development is excessive relative to the size of the subject site and fails to provide adequate private open space. The proposed development would give rise to poor quality residential amenity for any future residents and would also compromise the residential amenity of the existing dwellings to the north west the dwelling south of the site (irrespective of it being proposed within the existing garden ground of that property). The proposed development would therefore be injurious to the residential amenity of these properties and would depreciate the value of property in the vicinity and would be contrary to the proper planning and sustainable development of the area.

4. The proposed access/exit arrangement, if permitted, has the potential to result in conflicting vehicular movements and therefore would endanger public safety by reason of traffic hazard or obstruction of road users and would accordingly be contrary to the proper planning and sustainable development of the area.

5. The proposal to subdivide a residential plot would materially contravene the existing governing permission for the Hyde Court residential development (Planning Reg. Ref. No. PD/96/642 refers) and would give rise to disorderly development. The proposed development would accordingly be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's Report on file, in summary, had regard to the following planning issues:

- The proposed dwelling is located in an area zoned 'Existing Residential' in the Roscommon Town LAP 2014-2020 (and the Draft Roscommon Town LAP 2024-2030) and therefore residential development is acceptable in principle.
- However, under this zoning objective it is an objective of the Planning Authority to protect the existing residential amenity and character of the area.

- The proposed development will result in two small plots being formed from the existing large plot which would not be consistent with the existing pattern of development in the area.
- Overlooking of the property to the south (existing 11 Hyde Court) would be significant and lead to a loss of privacy.
- The proposed rear amenity space which extends 7.5m from the rear of the proposed house is inadequate and of poor quality.
- The proposed vehicular access would constitute a dual access at this location which could give rise to traffic hazard.
- The application site is within the notification area of a recorded monument and if permission were granted for the proposed development an archaeological protection condition would be required.
- There is a sewer main within the application site which would have to be diverted if the proposed development were to be granted permission.
- The proposed development would materially contravene a condition, No. 3, attached to the Hyde Court parent permission Ref. PD96/942.
- Neither AA nor EIA is required in relation to the proposed development.
- Recommend a refusal of permission for 5 no. reasons.

3.2.2. Other Technical Reports

- No internal reports on file.

3.2.3. Prescribed Bodies

- Irish Water has advised that a rising sewer main is located within the application site.

3.2.4. Observations

- A submission was received from Dympna Condon who is the Observer in this appeal case.

4.0 Planning History

4.1. On the Appeal Site

- Ref. 2360203 – an application for permission to: 1) extend existing entrance road and form new boundary walls and entrances. 2) construct a dwelling house, along with connection to existing services and all site ancillary development works on existing site at the current appeal site was submitted but later withdrawn on 14th November 2023.
- Ref. 23242 – an application for the same development as Ref. 2360203 above and by the same applicant was refused permission on 2nd August 2023 for 5 no. reasons (the same 5 no. reasons cited in the current appeal for the same development proposal).
- Ref. 23218 – an application for the same development as the above cases was deemed incomplete and invalidated on 25th May 2023.
- Ref. 981104 – an application was made on 16th November 1998 to rescind & remove Condition No. 3 as per PD/96/642 & applies to & in favour of PD/98/396. No decision is recorded in this case and no documents are available online.
- Ref. 98396 – permission was granted on 16th June 1998 for a two storey dwelling at the site of 11 Hyde Court, presumably the building that is currently occupying the site but no documents are available online to confirm this. As there are no documents on file setting down the wording of Condition No. 3 of this permission, which formed the basis for the fifth reason for refusal cited by the Planning Authority, this issue has not been assessed any further in this report.

4.2. In the Vicinity of the Appeal Site

- Ref. PD/96/642 – permission was granted on 10th February 1997 for the development of existing land for 39 no building sites and roads footpaths and ancillary services the parent permission for Hyde Court. No documents are available online.
- Ref. PD/99/442 – relates to a grant of permission for a two storey house on plot 12 Hyde Court which is located to the north of the appeal site and is occupied by the Observer in the current appeal.
- Ref. PD/99/534 – relates to a grant of permission for a two storey house and garage on plot 13 Hyde Court which is located to the north of 12 Hyde Court.

5.0 Policy and Context

5.1. Development Plan and LAP

Roscommon County Development Plan 2022-2028

12.6 Residential Development (Urban)

The Design Standards on urban development seek to assist in achieving positive urban placemaking and enhance a sense of place with access to services and amenities with a high quality of life for all.

It is acknowledged that the development of infill, brownfield and backland sites presents additional design challenges when compared to a greenfield site. In order to assist development, the application of policies and development standards shall allow for a degree of flexibility, focusing on design led and performance-based outcomes, rather than applying absolute requirements in all cases.

Design Principles

All development proposals should present high quality and considered design solutions employing best practice standards. The Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities³⁴ and the associated Best Practice Urban Design Manual provide guidance on best practice urban design principles. Proposals incorporating apartments should be designed in

line with design criteria as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities³⁵. All new urban development proposals will be assessed in accordance with national guidelines and any superseding guidelines for same. Dependent on the scale and siting of residential development proposals, a Design Statement will be required, and should address the suitability of the proposed design solution to the site context, in accordance with the relevant urban design criteria.

12.11 Backland Development

Backland development will not normally be permitted on residential sites in the suburban or rural situation as such development, including the construction of extra dwellings in gardens, can result in inappropriate and disorderly development and can have an adverse effect on the residential amenity of adjoining properties.

This may also result in the overloading of infrastructure and in missed opportunities for integrated renewal.

Backland development will be considered in cases where Local Area Plans/Settlement Plans are amenable to such development as a means of renewing derelict or underutilised urban lands. Backland development will be given consideration where the following criteria can be satisfied:

- The access arrangements would not significantly increase noise and disturbance to existing dwellings;
- Adequate provision of off-street parking;
- Adequate provision of private amenity space;
- The scale and design of the dwelling is compatible with the character of the buildings in the surrounding area;
- The development will not give rise to overshadowing;
- Existing trees or natural features are retained, where possible.

In the event that a development is proposed on a portion of a larger plot of land in a backland location, an indicative layout of the overall development intentions for the wider land will be required.

Roscommon Town LAP 2014-2020

The appeal site is located in an area zoned as 'Existing Residential' (ER) in the LAP (Map 17). Residential development is deemed 'Permitted in Principle' within the ER zoning objective.

Within this 'Existing Residential' zoning it is an objective of the Planning Authority to:

- Protect and enhance the residential amenities of existing and new residential communities and provide a high level of services within walking distances of residential developments.
- Provide for infill residential development at a density and design appropriate to the area and needs of the community.
- Provide for new and improved ancillary social and community services.
- Improve accessibility from these areas to town centres.
- Provide for the appropriate retail facilities in addition to local community and social facilities for the immediate community.
- Require the inclusion of appropriate open spaces in development in this zone.

Objective 103 - Assess and ensure that all proposals for housing developments comply with the Sustainable Residential Development in Urban Areas, DEHLG, May 2007, and the Urban Design Manual: A best practice guide, December 2008, as well as the Development Management Guidelines and Standards included in this Chapter and in Chapter 9 of the Roscommon County Development Plan 2014-2020.

Policy 123 - Ensure that a high standard of design is incorporated into residential developments through careful consideration of the layout to facilitate pedestrian safety and restrict vehicular traffic speeds.

Policy 124 - Ensure that developments are appropriately designed in terms of their form, density, size and dwelling types within residential areas, such that they contribute to the built character of the area.

8.3.5 Infill developments

Infill development must have due regard to the predominant existing uses, building lines and heights, design features, as well as the existence of particular features such as built heritage, trees and open spaces. Proposals for infill development must

demonstrate how they will integrate satisfactorily with the adjoining developments, without loss of amenity. In the town centre area, greater flexibility over the normal development standards may be given, provided good planning and design are achieved. In town centre locations, where minimum parking standards may not be achievable or desirable, a contribution in lieu may be accepted (see Section 8.3.8 below for further details). Similarly, good quality infill proposals in the town centre may be afforded a relaxation in the minimum open space standards.

Draft Roscommon Town LAP 2024-2030

The draft LAP 2024-2030 has not been adopted as of 11th April 2024 but with respect to the policies, objectives and development standards applicable to the proposed development at the appeal site there is no substantive difference between the draft and the current LAP 2014-2020 for Roscommon Town.

5.2. Natural Heritage Designations

The following natural Heritage designations are located in the vicinity of the appeal site:

- Lough Ree SAC 000440 is located approximately 3km to the east of the appeal site.
- Lough Ree pNHA 000440 is located approximately 3km to the east of the appeal site.

5.3. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any significant environmental sensitivity in the vicinity/ the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

The relevant planning grounds of appeal put forward by the First Party are, in summary, as follows:

- The appeal site is the only affordable site in Roscommon town that the appellant can build a house upon as he is a pensioner and divorced.
- The plot size of 11 Hyde Court is double that of the plots of other houses in the estate and is capable of accommodating the proposed dwelling.
- The proposed development would have a positive impact on the appearance of Hyde Court as it would infill a gap site in the line of detached houses.
- The proposed house is in keeping with the architectural style of the other houses in Hyde Court and would not therefore be visually injurious to the character of the area.
- The design of the proposed house ensures that it will fit into the divided plot with adequate amenity space and will not overlook 12 Hyde Court as no windows are proposed in the elevation that faces northward towards this neighbouring property.
- Minimal traffic would be generated by the proposed dwelling and the access onto the spur road leading to 11 Hyde Court would provide safe ingress and access to the proposed dwelling.

6.2. Planning Authority Response

- The Planning Authority has not responded to this appeal.

6.3. Observations

The Observation received from Dympna Condon, 12 Hyde Court (immediately north of the appeal site) makes the following relevant planning points:

- The proposed dwelling will overlook the rear garden and rear rooms of my house and will also block sunlight to same.
- The front driveway of the proposed house is immediately adjacent to my driveway and will change the aesthetic of the estate where all the houses have front gardens.
- The proposed vehicular access will constitute a traffic hazard given its location near a 90⁰ bend and the proposed house will generate additional noise and traffic congestion.
- The proposed development constitutes overdevelopment in an area characterised by low-density development on large plots and if permitted would provide an undesirable precedent for ad hoc residential development in the area.
- The proposed dwelling is contrary of the provisions of the Development Plan which requires that residential development is appropriately designed for the receiving site and contributes to the character of the area within which it is located.
- The excessive footprint of the proposed house results in a poor standard or amenity for future occupants especially with regard to amenity space provision.
- 11 Hyde Court has previously been extended and the overall site is at capacity in terms of new infill development.
- The proposed dwelling would contravene a condition attached to the parent permission for Hyde Court and be contrary to the proper planning and sustainable development of the area.
- The proposed development will exacerbate flooding of the storm drains which already occurs within the estate.

7.0 Assessment

- 7.1. 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 Observation and I am satisfied that no other substantive issues arise.
- 7.2. The assessment issues therefore relate to policy context, visual impact and traffic hazard. In the absence of information relating to Condition No. 3 of Ref. PD/96/642 (the parent permission) which formed the basis for the fifth reason for refusal cited by the Planning Authority, this issue has not been assessed any further in this report.
 - 7.2.1. The issue of AA Screening is also addressed in this assessment.
- 7.3. Policy Context
 - 7.3.1. The zoning objectives of the Roscommon County Development Plan 2022-2028 and the Roscommon Town LAP 2014-2020 relating to the appeal site accept that the principle of residential development is acceptable in infill or backland sites in existing residential areas. The Planner's Report on file confirms that in principle the proposed development is acceptable at the subject site.
 - 7.3.2. However, the relevant policies and standards contained in the County and Town Plans require that any infill residential development should be of a high design standard with adequate amenities in its own right and also be in harmony with the character of the area within which it is located. The Plans also require that any residential development in an existing residential area does not have an adverse impact on the residential amenity of the area.
 - 7.3.3. The proposed development, due to its location, design, scale and massing would constitute an incongruous intrusion on the existing aesthetic of Hyde Court and would amount to overdevelopment of the site. The footprint of the proposed structure and its orientation and general design would sit uncomfortably within the sub-divided plot of 11 Hyde Court and would be deficient in terms of the provision of quality private open space for future residents of the proposed dwelling contrary to Development Plan development management standards.

- 7.3.4. In terms of the potential impact on the residential amenity of neighbouring properties, the proposed house would not cause overlooking of 12 Hyde Court to the north (Observer's house) due to the absence of windows in the NW elevation of the proposed structure. However, due to the two storey nature of the proposed dwelling and to its orientation vis a vis the existing house at 11 Hyde Court, the proposed dwelling by virtue of overlooking and its overbearing nature would have an adverse impact on the residential amenity enjoyed by the occupants of 11 Hyde Court.
- 7.3.5. In addition, although no shadow cast studies were submitted with the application, it is likely that given the position of the proposed two storey dwelling in close proximity to 12 Hyde Court, a significant loss of daylight and sunlight may be anticipated leading to loss of residential amenity for the occupants of 21 Hyde Court.
- 7.3.6. The proposed development is not in compliance with development management standards for infill or backland sites and it would, if constructed have an adverse impact on the residential amenity of adjoining properties.

7.4. Visual Impact

- 7.4.1. The design of the proposed two storey dwelling is not necessarily objectionable in its own right but having regard to the location of the proposed dwelling on a sub-divided plot and to its relationship to the surrounding houses, the visual impact of the proposed development would be out of character with the existing pattern of development in the area.
- 7.4.2. The scale and massing of the proposed house does not respect its suburban context and the design of the proposed house is bland and without architectural merit. An infill house at this location would have to be of a much higher design standard and preferably of contemporary design to merit a grant of permission. The sub-divided plot may be capable of accommodating a single storey dwelling but the proposed two storey has a negative impact on the visual amenity of the estate.
- 7.4.3. Having regard to the above, I would advise the Board that the adverse visual impact on the character of the area would be a legitimate basis on which to issue a refusal of permission in this instance.

7.5. Traffic Hazard

7.5.1. Having inspected the site I believe that the concerns expressed by the Planning Authority and the Observer with regard to the creation of a new entrance onto the spur road leading to 11 Hyde Court are overstated. I note that no internal report from the Roads Section is on file.

7.5.2. Given the modest trip potential associated with the proposed dwelling, the access point being located on a spur road and to the cul de sac nature of Hyde Court, I do not believe that the additional vehicular access would constitute a traffic hazard and I would not recommend to the Board that this issue forms the basis for refusal of permission in this case.

7.6. AA Screening

7.6.1. Having regard to the relatively minor scale of the proposed development within an urban area and the distance from the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed 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

I recommend that planning permission for the proposed house be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the provisions of the Roscommon County Development Plan 2022-2028 and the Roscommon Town LAP 2014-2020, and to the planning history of the site, it is considered that the proposed dwelling constitutes overdevelopment of the subject site, would seriously injure the visual and residential amenity of the area and would represent an undesirable precedent for infill developments in the area. The development would, therefore, not be in accordance with 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.

Bernard Dee
Planning Inspector

11th April 2024

Appendix 1 - Form 1
EIA Pre-Screening
[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318959-24		
Proposed Development Summary	Construction of a new dwelling in a side garden of an existing house, a new vehicular entrance and all ancillary site works		
Development Address	11 Hyde Court, Roscommon, Co. Roscommon		
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	
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			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	√			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: 11th April 2024

Bernard Dee