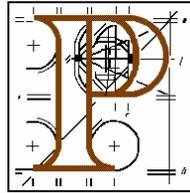


## An Bord Pleanála



## Inspector's Report

### Development

Description: Permission to demolish existing dwelling house and construct a new two storey dwellinghouse, shed, new entrance and boundary walls with associated site works.

Address: 'Thangi' Newcastle, Castletroy, Co Limerick.

### Planning Application

Planning Authority: Limerick County Council.  
Planning Authority Reg. Ref.: 12/1007  
Applicant: Larry and Rosemary Weeks.  
Type of Application: Permission.  
Planning Authority Decision: Grant permission with conditions

### Planning Appeal

Appellant(s): Michael Clancy, Paul & Mary Donohoe, Dr John Paul Donohoe, George & Margaret Hayes.  
Type of Appeal: Third Party v Grant.  
Observers: None.  
Date of Site Inspection: 10<sup>th</sup> June 2013.

Inspector: Bríd Maxwell.

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site is located in a mature residential area within Castetroy in the eastern suburbs of Limerick City. The site which has a stated area of .132 hectares is occupied by a single storey dwelling of 196 sq.m known as “Thangi” and associated outbuildings and is set within a mature garden. The house is currently unoccupied. The dwelling which was originally constructed in the early 1940s has been extended over time. Within the vicinity of the site, there are a mix of detached dwellings of varied size and design set within mature gardens. There are no footpaths on the access roads but public lighting is in place. Whilst access road is narrow it is possible for two cars to pass.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 The proposal involves the demolition of the existing dwelling and construction of a new dwelling of 279m<sup>2</sup>. The proposed dwelling is art deco in design with distinctive features including white rendered frontage rising to a flat roof, sharp geometric door surrounds, tall windows and convex curved metal corner windows. The proposed dwelling is to be set back *circa* 14.3 sq.m from the front roadside boundary. Finished floor level is to be .730m lower than that of the existing dwelling, A new shed and store are proposed to the rear and side of the dwelling. New boundary walls are proposed to the north, east and west boundaries

## **3.0 PLANNING AUTHORITY’S DECISION & DELIBERATIONS**

- 3.1 Limerick County Council issued notification to grant permission for the proposed development subject to 10 conditions, which included the following of note:  
Condition 2 Development Contribution of €4,731 in accordance with the Development Contribution Scheme.  
Condition 4. Existing front boundary hedge and trees to be retained except to the extent that their removal is necessary to provide for proposed wing walls piers and entrance to the site.  
Condition 6. Roof of the dwelling shall not be used as a balcony / roof garden.  
Condition 10. Part V agreement.

### **3.2 Submissions.**

Third party submissions by the appellants raised issues raised in the appeal in relation to scale and design of the dwelling, impact on residential amenity arising from overlooking, overshadowing, and undesirable precedent for demolition

### **3.3 Internal Reports.**

- Executive Engineer Drainage indicates no objection.

- Report of Executive Planner recommends permission subject to conditions.

#### **4.0 PLANNING HISTORY**

- 4.1 PL13.213447 Relates to the adjoining site and was permission to demolish a single storey, dwelling house and construct a two-storey dwelling house with detached games room/garden shed, boundary wall and entrance with associated site works.

#### **5.0 GROUNDS OF APPEAL**

- 5.1 The third party appeal is by a number of residents living in dwellinghouses adjacent to the site. Grounds of appeal are summarised as follows:

- Siting breaches established building line.
- Design will be excessively dominant on an elevated site.
- Design compromises an established pattern of design and sets an unwelcome precedent.
- Gallery window is excessive in size. First floor windows will overlook dwellings opposite.
- Height should be reduced to bungalow or storey and a half.
- Negative impact on morning sunlight to neighbouring garden to west.
- West gable window will directly overlook garden.
- Boundary walls will interfere with root systems.
- With reference to permission for neighbouring houses to the east, An Bord Pleanála stipulated that trees be retained however developer subsequently applied to the Council to build a high wall.
- Surface water arising on site will lead to flooding.
- Procedures at Limerick County Council did not allow third parties to view further information submissions and respond.
- Art Deco house at Monaleen road, Casteltroy provides an entirely different context.

#### **6.0 APPEAL RESPONSES**

##### **6.1 First Party Response**

- 6.1.1 The response to the appeal is submitted by John Lahiff, Architects on behalf of the first party and is summarised as follows:

- Staggered nature of houses and mixed design give the location its character.
- Proposed house is 3m back from front line of building to be demolished.
- Finished floor level of proposed house is .730m lower than existing dwelling finished floor level.

- Flat roof will ensure that impact is minimal.
- House type is similar to houses in the area for example house to the rear. (photograph attached)
- Area to rear of gallery window is void therefore there is no interference with neighbouring residential amenity.
- Row of mature trees on roadline is to be maintained.
- House will have no impact on sunlight to adjacent dwelling to west and first floor window will be obscurely glazed.
- Applicants keen to maintain landscaping along boundaries of the site.
- It is proposed to provide an underground water storage tank to take surface water from the flat roof, filter and reuse for domestic use. Driveway and parking will be laid to falls onto the new planted area and front lawn and an aqua drain will be provided at the entrance to prevent surface water from flowing onto the road.

## **6.2 Planning Authority**

6.2.1 Limerick County Council did not respond to the appeal.

## **7.0 POLICY CONTEXT**

### **7.1 DEVELOPMENT PLAN PROVISIONS**

7.1.1 The site is governed by the policies and provisions contained in the Limerick County Development Plan, 2010-2016 and Castletroy Local Area Plan 2009.

7.1.2 The site is within an area to which Zoning: Existing residential applies.

## **8.0 PLANNING ASSESSMENT**

8.1 As regards the principle of demolition of the existing dwelling, I note that the principle of demolition of the existing bungalow and development of a two-storey dwelling on the property is acceptable given the site size and context with a mixed character of dwelling designs in the vicinity. I note the submissions on behalf of the first party that the existing dwelling has substantial issues of dampness and does not meet the modern requirements and in my view is of no particular architectural merit. On this basis, I consider that the principle of demolition and redevelopment is therefore appropriate. The main issues raised by the third parties relate to the scale and design of the proposed dwelling and the impact on established residential amenity.

8.2 As regards the scale and design of the dwelling I do not consider that the proposed development would have any detrimental impact on the established form and character of the area. The dwelling is art deco in style incorporating typical characteristics of the style including white rendered frontage rising to a flat roof, sharp geometric door surrounds,

tall windows and convex curved metal corner windows. I consider that the size of the site and established landscaping provides an attractive and appropriate setting for the dwelling as proposed. I would concur with the first party that the mixed styles and designs in the locality is a significant element which gives the area its character.

- 8.3 In terms of the impacts on amenity levels of adjacent properties, I have no undue concerns. As regards overlooking of dwellings opposite, I note that the proposed dwelling is set back a minimum of 14.3m from the front roadside boundary and the separation distance between dwellings is adequate. The retention of the roadside boundary hedging and trees will mitigate the impact on dwellings opposite.
- 8.4 I would concur with the first party that given the distance to the western boundary of 8.9m and established landscaping the dwelling will have no overshadowing impact on this property.
- 8.5 In relation to overlooking I would note that the first floor windows to eastern and western side elevations of the proposed dwelling are to serve a stairwell, an ensuite bathroom and a corridor respectively. I would consider it reasonable in the interest of residential amenities that a condition is attached requiring opaque / obscure glazing to address any potential or perceived overlooking.
- 8.6 I consider that the proposed design is appropriate and can be readily be accommodated on the site. I consider that there will be no diminution of the residential amenity of the adjacent dwellings due to the design scale and height of the dwelling.
- 8.7 As regards the issue of Appropriate Assessment, having regard to the nature of the development and the site and the lack of connectivity with a Natura 2000 site it is considered that Appropriate Assessment under the Habitats Directive (92\43\EEC) is not relevant in this case.

## **9.0 RECOMMENDATION**

- 9.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

## **REASONS AND CONSIDERATIONS**

Having regard to the residential zoning of the site of the proposed development, the size of the site, the pattern of development in the area, the design and layout of the proposed development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of

the area or of property in the vicinity, would be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 particular

**Reason:** In the interest of clarity.

2. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:
  - (a) A plan to scale of not less than [1:5--] showing –
    - (i) Existing trees, hedgerows, shrubs specifying which are proposed for retention as features of the site landscaping
    - (ii) The measures to be put in place for the protection of these landscape features during the construction period
    - (iii) The species, variety, number, size and locations of all proposed trees and shrubs [which shall comprise predominantly native species such as mountain ash, birch, willow, sycamore, pine, oak, hawthorn, holly, hazel, beech or alder [which shall not include *prunus* species]

**Reason:** In the interest of visual amenity.

4. Windows in the east and west elevations at first floor level shall be finished in obscured / frosted glazing.

**Reason:** In the interest of residential amenity.

5. All service cables associated with the proposed development (such as electrical, communal television, telephone and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

**Reason:** In the interest of orderly development and the visual amenities of the area.

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health and to ensure a proper standard of development.

7. Prior to the commencement of the development the applicant shall submit for the written agreement of the planning authority, a fully comprehensive demolition and construction waste management plan in accordance with the Best Practice Guidelines on the preparation of Waste Management Plans for Construction and Demolition Projects published by the Department of the Environment Heritage and Local Government in July 2006. This shall include details of wastes to be generated during site clearance and construction phases and details of the methods and locations to be employed for the prevention, minimization, recovery and disposal of this material.

**Reason:** In the interest of orderly development and sustainable waste management.

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order/ the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

**Reason:** To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

9. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

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Brid Maxwell  
Inspectorate  
9<sup>th</sup> July 2013