



An
Bord
Pleanála

Inspector's Report PL91.248092

Development	Construction of a two storey dwelling house, associated site works and the demolition of existing two storey dwelling house.
Location	Sunville Lodge, North Circular Road, Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	16/1078
Applicant(s)	Trudy & Philip Kenny
Type of Application	Planning Permission.
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Cathy Casey
Observer(s)	None.
Date of Site Inspection	27 th April, 2017
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The subject appeal site has a stated area of 0.0278ha and is located at the junction of North Circular Road and Sunville Avenue to the west of Limerick City, and north of the River Shannon. The North Circular area of Limerick City is a predominantly mature residential area and the subject property is currently occupied by a three bay two storey house which is known as Sunville Lodge. It is submitted that the subject house originally formed part of the Demesne of Sunville House, although with the extensive residential development in the area, the connection is no longer relevant. Sunville House remains intact on reduced grounds. The existing house to be demolished has a stated area of 88.5m² and full plans for the property have been provided.
- 1.2. The house on the site is located to the south of the subject triangular site, and is bound to the west by Duncliff House, a large two storey house, by the North Circular Road to the south and Sunville Avenue to the east. The house types in the vicinity vary considerably including large and imposing detached two storey houses, as Duncliff House adjacent, to large two storey semi-detached houses on North Circular Road, three storey semi-detached houses in Heron Court to the west and four storey apartment block to the north west at The Parc. Further to the south west of the subject site is also an example of a modern flat roofed two storey home. Villiers Secondary School and its associated sports grounds are also located to the west of the subject site.

2.0 Proposed Development

- 2.1. Permission is being sought for the construction of a two storey dwelling house, associated site works and the demolition of existing two storey dwelling house, at Sunville Lodge, North Circular Road, Limerick
- 2.2. In support of the proposed development, the applicant has submitted the necessary plans and particulars as well as a design statement and a report giving the opinion on the historical significance of the lodge to be demolished.
- 2.3. The proposed dwelling is a two storey flat roofed contemporary house which will include for the provision of car parking for one car. The house will provide accommodation over two floors including an entrance hall, WC, a music / study

room, a large open plan kitchen / dining room / living room to the south east of the entrance hall. A patio area is proposed off the living room area. To the north west of the entrance hall, there is a den / studio which is accessed via a utility. There is a door leading to the rear entry from the utility and double doors from the den / studio leading to an outdoor yard area. This den / studio area also includes a WC.

- 2.4. Above the den / studio, there is a mezzanine floor over half of the lower room with access onto the single storey flat roofed entrance hall area of the house. It appears that this will connect with the first floor area of the south east block of the house where the upper floor will accommodate two en-suite bedrooms. The house proposes a floor area of 204.5m² and open space is proposed in the form of the two patio / yard areas. The open space provision covers approximately 50m². not including the car parking / entrance area. The overall height of the building is indicated at 5.95m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to nineteen standard conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer considered the proposed development in terms of the plans, particulars and reports submitted in support of the proposed development, internal submissions, objections and the requirements of the Limerick City Development Plan 2010-2016. The report concluded that the proposed house design was acceptable, that the development would not result in overlooking or give rise to traffic issues. It was further considered that the opinion presented regarding the historical significance of the existing building was acceptable and that there was no objection to the demolition of the existing house on the site. The report notes that while the proposed open space proposed is below the generally required open space requirement, having regard to the design and layout of the dwelling, the design of the

open space and the location of the development, it is acceptable. Permission is recommended.

3.2.2. **Other Technical Reports**

The Conservation Officer recommends that he is satisfied that the development will not impact on the built heritage and recommends that permission be granted subject to the inclusion of standard conditions limiting the development to that sought and preservation by record of the existing building to be demolished.

3.3. **Prescribed Bodies**

Irish Water No objection, subject to Conditions

3.4. **Third Party Observations**

There are two third party submissions on the Planning Authority's file in relation to the proposed development as follows:

- EML Architects on behalf of owner of neighbouring property (Cathy Casey, Duncliff House) &
- Sarah & John McGarry

The issues raised in the objections are summarised as follows:

- The proximity to the adjacent property will reduce the natural light to the house
- Excavation to facilitate the development will impact on boundary walls or house walls.
- Traffic issues regarding the vehicular access so close to the junction.
- Windows will result in overlooking
- The building will be visually overbearing and inappropriate for this area of North Circular Road. There will be a perceived loss of value to properties in the area.
- It is requested that the applicants be requested to resubmit a house design which is smaller, less intrusive and more sensitive to the character of the road.

4.0 Planning History

4.1. Application site

None.

4.2. Adjacent sites

There is no recent relevant planning history noted.

Reference is made to PA ref 98/253 which refers to an application for the construction of a three storey house, front entrance and front boundary wall and rear entrance at North Circular Road. Permission was refused for 4 reasons including the following:

4. The applicant has not demonstrated to the satisfaction of the Planning Authority adequate legal interest to provide the access from this site onto the public road in Sunville nor has adequate permission been obtained from the owners of the site (namely Limerick Corporation) for the provision of an access from the site onto the public road in Sunville as indicated on the application and it is considered that such access as indicated on the lodged plans would be contrary to the interests of public safety, including traffic and pedestrian safety on such public road.

5.0 Policy Context

5.1. Development Plan

Limerick City Development Plan 2010-2016:

The site is has the Zoning Objective ZO.2(A) Residential afforded to it. It is the stated objective to provide for residential development and associated uses.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a third party appeal against the decision of Limerick City & County Council to grant planning permission for the proposed development. JTG & Associates, Consulting Engineers, on behalf of Ms. Cathy Casey submitted the appeal documents and the grounds of appeal are summarised as follows:

- The proximity of the proposed dwelling to appellants property will reduce the natural light levels in the house
- The effect that excavation to facilitate the proposed development may have an impact on the boundary wall. Conditions included in decision are not appropriate. The applicants intentions to safeguard the integrity of the wall should be made clear.
- Traffic issues that may arise with vehicular site access so close to the road junction. There is no current vehicular access to the site.
- Issues in relation to compliance with the City Development Plan raised.
- It is concluded that the existing 3 bed house should be retained unless it can be shown that it has a need to be demolished from a structural point of view.

The appeal also includes a number of enclosures including photographs and good practice guidelines for site layout planning for daylight and sunlight and BS standard Lighting for Buildings – Part 2 Code of practice for daylighting.

6.2. Planning Authority Response

The Planning Authority has not responded to this appeal.

6.3. First Party Response to Third Party Appeal

The first party, through their agent, has submitted a response to the third party appeal. The response presents an introduction to the proposed development and the grounds of appeal are summarised as follows:

- The validity of the appeal is questioned as the third party submission made to the PA was not made by the Appellant but by Mr. D. Maguire, EML Architects.

The appeal is therefore invalid by virtue of Section 127(2) of the Planning & Development Act.

- With regard to sunlight and daylight impact:
 - ❖ the appellants comments are selective, simplified with fundamental details glossed over. The technical section provided (in appeal) contains inaccuracies that present incorrect assumptions.
 - ❖ The two ground floor windows were conditioned to be in obscure glazing.
 - ❖ It is demonstrated that these two affected windows get limited or no direct sunlight and the proposed development will have an imperceptible impact on sunlight due to the orientation and position of the windows behind the boundary wall.
- With regard to potential interference with the boundary wall, the applicant submits:
 - ❖ the original wall is to be retained while a more recent block wall on Sunville Avenue is to be demolished and replaced.
 - ❖ Part of the current house on the subject appeal site is constructed on top of the original stone boundary wall. This building is to be demolished with the section of block rendered wall reduced to the height of the stone wall.
 - ❖ The applicant is satisfied to retain the western boundary wall, and the block rendered section is required. The soffit and fascia will be removed and works can be done without any interference to the boundary wall.
 - ❖ The construction of the house will be off the boundaries and therefore can be achieved without major risk to the wall.
 - ❖ The adjacent property was constructed within 1350mm of the boundary wall without incident.
- Traffic Issues:
 - ❖ It is submitted that there has never been on site parking on the subject site.
 - ❖ All car parking has been on-street and it is preferred that car parking be on site.

- ❖ It is requested that this element of the appeal be dismissed.
- Compliance with City Development Plan:
 - ❖ The subject site is zoned 2A Residential thus the proposed development accords with the land use zoning objectives of the plan.
 - ❖ The existing house on the site is of no architectural merit and is in poor condition. The proposed dwelling is a replacement dwelling.
 - ❖ The replacement dwelling will be set back from the boundary and there will be no windows along the south western elevation. The master bedroom window will offer no opportunity to overlook the appellants property.
 - ❖ The shadow projection diagrams demonstrate that the development will not give rise to any material impact in terms of overshadowing or loss of daylight.

It is requested that the decision to grant permission be upheld. The response includes a number of enclosures including legal opinion on the validity of the third party appeal.

6.4. **Observations**

None.

6.5. **Further Responses**

The third party appellant, through their agent, submitted a further response to the first party response to the third party appeal. The response is summarised as follows:

- A substantial part of the appeal relates to daylight. There is no issues with regard sunlight.
- The internal layout of the appellants property is irrelevant.
- Any non-compliance with conditions attached to a 17 year planning permission issue cannot be enforced. The reason for the referred condition was to protect the enjoyment of the adjoining dwelling. There have been no complaints.

- Based on the drawings on file, the case presented in the appeal is considered reasonable and the angle 'Theta' of 25.05 remains valid.
- In terms of the boundary wall, the stone facing as proposed is the preferred option as long as there is no damage to the wall..
- In terms of traffic issues, it is submitted that the pre-planning consultation discussions states that preference for off-street parking where possible. The issues raised regarding restricted sight distances and the danger of reversing manouvers into the site represents a danger, as well as reversing out of the site. There is precedent for refusal for access onto Sunville – P98/253 refers.

It is requested that the proposed development be refused.

7.0 **Assessment**

7.1. Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, I conclude that issues arising for consideration should be addressed under the following headings:

1. The principle of the development & the compliance with the City Development Plan
2. Potential impacts associated with the proposed development
3. Roads, Access and Traffic Issues
4. Other Issues
5. Appropriate Assessment.

7.2. **Principle of the development & the compliance with the City Development Plan:**

7.2.1. The Board will note that there is an existing house on the subject site which is to be replaced by the proposed new dwelling. The site is also located within the zoned area of Limerick City and has the Zoning Objective ZO.2(A) Residential afforded to it. It is the stated objective to provide for residential development and associated uses. In this regard, I am satisfied that the principle of the development can be considered as acceptable.

7.2.2. Site specific issues are required to be addressed in accordance with the 'Sustainable Residential Development in Urban Areas', 2009 and the accompanying 'Urban Design Manual – A Best Practice Guide'. In particular, I consider that issues relating to provision of open space, overlooking and overshadowing – including the impacts on daylight, are required to be addressed. These issues will be addressed further below but I am satisfied that in principle, the proposed development adequately accords with these guidelines.

7.3. Potential impacts associated with the proposed development:

7.3.1. In considering proposals for the proposed residential development which proposes the replacement of an existing house, it is important that any design will respect and integrate with the surround area and seek to protect the visual amenities and residential amenities of properties in the vicinity. The existing dwelling to be replaced is a two storey house which was at one stage, associated with Sunville, a villa which still stands to the north of the subject site. A report was submitted as part of the application, from Ms, Judith Hill, Historic Buildings Consultant, in relation to the historical significance of the existing house on the site. The report found that the house is likely to incorporate the walls of the lodge that originally existed. The only surviving original material is identified as the external walls, now covered in dash, two door architraves and an attic door. The report concludes that the house is of no architectural or historical significance and that architecturally, the house is poor and its character dominated by various additions and alterations made in the twentieth century. The findings of this report are supported by the Conservation Officer of Limerick City & County Council. In this regard, I am satisfied that the proposed replacement is acceptable in principle.

7.3.2. The proposed dwelling to replace the existing house has a contemporary design being a two storey flat roofed house. The building will have a select rendered finish with double glazed windows to be installed. The flat roof is described as a selected warm deck membrane roof. The building will rise to a height of 5.65m in height and will have a stated floor area of 204.5m². The existing house on the site has an overall height of 6.835m and has a stated floor area of 88.5m². It is proposed that the house will be constructed 1m from the existing boundary wall.

- 7.3.3. The proposed house, if permitted, will provide for a family home with two ensuite bedrooms on the site and two areas of private open space are proposed, one to the front of the site and one to the rear. A pedestrian gate is also to be provided to the rear of the site. The rear garden is north facing and occupies an approximate area of 30m². The proposed open space area to the front of the site will be approximately 18m². The Board will note that the City Development Plan usually requires 15m² private open space for each bed space proposed. In this regard, it may be considered that the proposed development falls short. However, the contemporary design also provides for an area of private open space at first floor level with an approximate area of 16m² which also contributes to the sites overall private open space provision. Overall, I am satisfied that the development is acceptable on this very restricted site and the residential amenities of the occupants is appropriate and acceptable.
- 7.3.4. In terms of the Impact of the development on the amenities of adjacent residents, particularly in terms of light and privacy, the Board will note that this appears to be the primary third party objection to the proposed redevelopment of of the site together with traffic issues. It is submitted that the proposed development will impact the adjoining house by affecting daylight in the family room of the house. Both the first and third party have sought to put their arguments in relation to this issue forwards in the course of the PAs assessment and with submissions to the Board. I note that the existing house has been constructed on the party boundary and that the development as proposed, will set this back by 1m. In addition, I note that the proposed house does not propose any first floor windows which would facilitate overlooking into the adjoining property.
- 7.3.5. The overall height of the proposed house is lower than the existing house and that the house is to be located to the east of the third party appellants house. As such, if there is any impact on the appellants house in terms of overshadowing / impact on daylight, it will occur in the mornings. I also note the nature of the existing boundary as well as the conditions of the grant of planning permission for the adjacent property. I have considered this issue very carefully and I consider that, having regard to the the nature of the proposed development, together with the design and layout of the proposed house and site, I am inclined to agree with the first party in this instance. Overall, I am satisfied that the proposed development is acceptable in

terms of this issue and if permitted, the development as proposed, would not result in any significant overshadowing of, or impact on the available daylight in the adjoining property.

- 7.3.6. In terms of the concerns raised regarding the impacting of the boundary wall, the Board will note that the first party has advised that the original wall is to be retained as is. It is proposed to remove the existing soffit and fascia only. I am satisfied that this is acceptable subject to compliance with conditions and good construction practices.

7.4. Roads, Access and Traffic Issues:

- 7.4.1. The Board will note that at present, there is no on-site parking provided for the existing house on the subject site. The proposed development seeks to change this by providing a new vehicular access onto the public road serving Sunville. The proposed entrance will be located approximately 15m from the junction of Sunville with North Circular Road. Parking will be provided for one car. The third party appellant submits that this element of the proposed development may give rise to traffic issues with the proximity of the entrance to the junction. In terms of compliance with the City Development Plan, Chapter 16 deals with Development Management where it deals with Corner / Site Garden Sites. For such corner sites, the plan requires that the provision of a safe means of access to and egress from the site which does not result in the creation of a traffic hazard and the provision of appropriate car parking facilities.

- 7.4.2. In addition, the plan deals with 'Parking in Front Gardens' and states

'The cumulative effect of removal of front garden walls and railings damages the character and appearance of suburban streets and roads. Consequently proposals for off street parking need to be balanced against loss of amenity. The removal of front garden walls and railings will not generally be permitted where they have a negative impact on the character of streetscapes (e.g. in Architectural Conservation Areas, Street Improvement Areas and other areas of architectural and historic character).'

The subject site is not located within an ACA and it has been determined that the existing house on the site is of no architectural merit to warrant its retention. In terms

of the potential impact of the creation of the vehicular access on the character of the streetscape, the Board will note that there are no vehicular access points in this area of Sunville. The introduction of a vehicular access so close to the junction with North Circular Road will impact on the character of the existing streetscape and clearly, the question to be considered is if this impact is negative.

- 7.4.3. Reference is made to PA ref 98/253 which refers to an application for the construction of a three storey house, front entrance and front boundary wall and rear entrance at North Circular Road. Permission was refused for 4 reasons including a reason which considered that 'such access as indicated on the lodged plans would be contrary to the interests of public safety, including traffic and pedestrian safety on such public road.' In terms of the traffic safety issues raised, I would agree that the proposed location is very close to the existing junction and if permitted, could give rise to traffic and pedestrian safety issues. While I acknowledge the preference to provide off-street car parking, I would concur with the third party in this instance and suggest that the proposed provision of a vehicular entrance as proposed would negatively impact on the existing streetscape at this location, as well as present as a potential traffic hazard. In addition, the Board will note that the City Development Plan requires that a vehicular entrance is not wider than 3m while the proposed layout provides for an entrance of 5m. I consider that this element of the development can be omitted by way of condition.

7.5. **Other Issues**

7.5.1. Servicing:

The proposed development shall connect to existing water services. There is no objection in this regard.

7.5.2. Validity of appeal:

The first party has questioned the validity of the third party appeal. I am satisfied that the requirements of Section 127(1)(b) and (e) of the Planning & Development Act, 2000 as amended has been adequately complied with and that the appeal is valid.

7.6. **Appropriate Assessment :**

The subject site is located in close proximity to the Lower River Shannon SAC (Site Code 002165) being located 150m to the north. Given the brown field nature of the subject site, which is an existing long standing residential site within a wider suburban residential area of Limerick City, and having regard to the nature and limited scale of the proposed development, 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

- 8.1. It is recommended that planning permission be granted for the proposed development, subject to compliance with the following conditions:

9.0 Reasons and Considerations

Having regard to the provisions of the current Limerick City Development Plan, 2010-2016 as extended, the existing established residential use, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plan as it relates to residential developments, would be acceptable in terms of servicing, traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is further considered that the development would be acceptable in terms the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, submitted the 28th day of November, 2016, together with the details submitted to An Bord Pleanala on

the 27th day of March, 2017, except as may otherwise be required in order to comply with the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. No permission is granted for the establishment of the vehicular access to the site as proposed.

Reason: In the interests of traffic safety.

3. The external finishes of the proposed house shall be in accordance with the plans and particulars submitted in support of the proposed development.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared 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.

Reason: In the interest of sustainable waste management.

6. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, 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.

A. Considine

Planning Inspector

24th day of May, 2017