



An
Bord
Pleanála

Inspector's Report PL92.248535

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| Development | Permission for as constructed sub division of single dwellinghouse to two semi-detached dwellings and all associated ancillary site works. |
| Location | Thomond Lodge, Ciamalta Meadows, Ciamalta Road. Nenagh, Co Tipperary. |
| Planning Authority | Tipperary County Council. |
| Planning Authority Reg. Ref. | 17/600080. |
| Applicant(s) | Tom Grace and Sons Ltd. |
| Type of Application | Permission. |
| Planning Authority Decision | Grant permission subject to conditions. |
| Type of Appeal | Third Party |
| Appellant(s) | Eileen Spellessy |
| Observer(s) | None. |
| Date of Site Inspection | 4 th August 2017. |
| Inspector | Bríd Maxwell |

1.0 Site Location and Description

- 1.1. The appeal site has a stated area of 0.68 hectares and comprises an established dwelling site located within the established Ciamalta Meadows Housing Estate to the southwest of Nenagh Town Centre. The site is occupied by a single storey structure formally a single dwelling (Thomond Lodge) which has been extended and subdivided into two dwelling units. The dwelling on the site fronts onto Ciamalta Meadows to the south and also has an access (gated) from Thomond Place to the north.

2.0 Proposed Development

- 2.1. The application as advertised in public notices seeks “retention permission for as constructed sub division of single dwellinghouse to two semi-detached dwellings and all associated ancillary site works”. The layout as constructed provides a T shaped structure providing two number two bedroomed dwellings with front and rear gardens. The westernmost dwelling has a floor area of approximately 104 sq.m and the easternmost 102sq.m. Both dwellings have parking area to front onto Ciamalta Meadows and a garden to the rear. The westernmost dwelling also has a vehicular gateway access along the northern boundary onto Thomond Place whilst there is a pedestrian gate within the boundary of the eastern dwelling to Thomond Place.
- 2.2. In response to a request for additional information seeking proposals to mitigate the impact on the adjacent dwelling to the west, the applicant proposes to increase the height of the western site boundary wall to the rear of the dwelling to a consistent height of 1.65m.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission and 4 conditions were attached which included the following:

Condition 2. Prior to works commencing on the existing western boundary wall the applicant shall ensure that a structural survey of same wall is completed by a

qualified engineer and following the results of this shall either raise the existing wall to a height of 1.65m or construct an entirely new wall to a height of 1.65m. The wall shall be plastered and capped and shall be completed within 3 months of the date of grant of this permission.

Reason: In the interest of visual amenity.

Condition 4. Development contribution of €2,563.70 in accordance with the development contribution scheme.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial planner's report expressed concerns regarding impact on residential amenities of the property to the west and recommended increase in height of the western boundary wall. In calculating development contributions, the report asserts that the new floor area is 82.7m.²(Based on floor area figures provided in the application)

3.2.2. Other Technical Reports

Roads Report indicated no objection.

3.3. Third Party Observations

Submission from the appellant Eileen Spellessy resident of 69 Ciamalta Meadows the property located to the west of the appeal site. Objects to the window, door and footpath constructed to the side of the dwelling which overlook her property.

Negative impact on light and privacy. Wall is an eyesore. Objects to proposal to increase height of the wall.

Submission by Rena Kelly, 3 Thomond Place questions the validity of the application on basis that previous unauthorised extension of the dwelling is not expressly addressed within the application and description fails to accurately the development carried out. Subsequent submission expresses concern that the local authority did not address this issues raised. Submission notes that the walls and gates of the property facing Thomond Place remain overtime in a considerable state of disrepair

and express the view that it is reasonable that these should be maintained in good condition.

4.0 **Planning History**

No planning history on the site.

5.0 **Policy Context**

5.1. **Development Plan**

- The Nenagh Town and Environs Development Plan 2013-2019 refers. The site is zoned existing residential. The objective is to protect and enhance existing residential areas.
- Chapter 9 sets out Development Management Standards and Guidelines.

5.2. **National Policy**

- Sustainable Residential Development in Urban Areas
- Quality Housing for Sustainable Communities Best Practice

5.3. **Natural Heritage Designations**

- Silvermines Mountains West SAC
- Slievefeilim to Silvermines Mountains SPA
- Lough Derg (Shannon) SPA

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The appeal is submitted by Eileen Spellessy, resident of the adjacent dwelling to the west of the appeal site. Grounds of appeal are summarised as follows:

- Window, door and footpath provided to the western side of the property results in overlooking loss of privacy.
- Ground level significantly higher on appeal site thus enabling overlooking.
- Proposal to increase the height of the wall by way of the addition of two courses of masonry blockwork not acceptable as the wall was constructed prior to 1960 and appears to have no foundations therefore could result in collapse and serious health and safety impact.
- Condition 2 should be amended to require building of a new wall suitably plastered and capped. Certified by a suitably qualified engineer.
- Any damage to adjacent property should be made good. Reason for condition should be based on health and safety and light and privacy.

6.2. **Applicant Response**

The First Party did not respond to the appeal.

6.3. **Planning Authority Response**

The response of the Planning Authority asserts that the planning authority is satisfied that the decision to grant permission was appropriate and in the interest of the proper planning and development of the area. Issues raised were fully considered and responded to in the Planner's reports.

7.0 **Assessment**

7.1 I note the submissions of the observer to the local authority which questioned the validity of the application on the basis of the limitations of the description of the works for retention. I note that the level of detail provided in respect of the pre and post development scenario are sparse however it appears from photographic and mapped evidence that ancillary structures on the site were converted or demolished over time and the building on its western side has been extended to front and rear. The retrospective nature of the application raises questions in regard to the first party's approach to the planning process, however I consider that it is appropriate that the development as constructed be considered on its merit. I note that the public

notices refer to “*retention for as constructed subdivision of single dwellinghouse to two semi-detached dwellings and all associated and ancillary site works.*” The wording is wide ranging and in my view third parties were not prejudiced and it is clear what is intended in terms of the application.

- 7.2 The dwelling is not a protected structure is not within an ACA or within the zone of archaeological potential. In light of national and local planning policies which support residential consolidation and sustainable intensification within serviced urban areas in the interest of efficient land use resources and economies of scale, I consider that the principle of constructing a second dwelling on the site is acceptable subject to compliance with normal planning considerations.
- 7.3 As regards the site capacity and standard of amenity provided by the proposed dwellings, I consider that the proposed layout with regard to open space and residential amenity space both internally and externally are acceptable and that an adequate standard of residential amenity is achieved.
- 7.4 The key issue raised in the appeal relates to the impact on the established amenity of the adjacent dwelling to the west. The development carried out has resulted in exposure of the eastern side of the appellant’s dwelling to overlooking. The first party proposes to mitigate overlooking by way of raising the rear section of wall by two block courses. The third party appellant’s concerns are that the existing wall is not structurally sound and therefore an increased height could result in collapse and the existing wall should be replaced by a new wall. The first party did not respond to the appeal and did not address the issues raised in the appeal. I consider it reasonable in light of the impact arising in terms of increased walling that the wall should be suitably capped and plastered on both sides. I consider that the issue of structural stability should be addressed by condition and boundary issues resolved in the short term.
- 7.5 The site is serviced with access to foul services and public water supply and no specific concerns arise in this regard. As regards the issue of Appropriate Assessment, having regard to the nature and scale of the proposed development and nature of the receiving environment and proximity to 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 either individually or in combination with other plans or projects on a European Site.

8.0 RECOMMENDATION

8.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. The development proposed for retention is considered to be acceptable having regard to the land use zoning objective of the appeal site. The development proposed for retention provides for an adequate standard of residential amenity and subject to additional mitigation in relation to boundary treatment is not such as to be injurious to the existing residential amenities of the area. The development proposed for retention would not give rise to a traffic hazard and is considered to be in keeping with the proper planning and sustainable development of the area. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the nature of the site on lands zoned for residential purposes, the Board is satisfied that the development proposed for retention is in keeping with the existing character and pattern of development in the immediate area. The proposal would not be seriously injurious to the existing residential amenities of the area, would be acceptable in terms of traffic safety and convenience, would provide an adequate standard of residential amenity, would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

CONDITIONS

1. The development shall be carried out in accordance with the plans and particulars lodged with the application, as amended by the plans and particulars received by the planning authority on the 30th day of March 2017

except as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. (a) Within one month of the grant of permission, the developer shall provide to the local authority a report by a suitably qualified structural engineer in respect of the structural stability of the existing wall along the western boundary of the appeal site.
(b) Arising from the detail of the structural survey outlined in 2(a) above the developer shall provide within 2 months of the date of grant of permission consistent wall of 1.65m along the rear western site boundary. The wall shall be suitably plastered and capped on both sides along the full length of the western boundary.
(c) Within two months of the grant of permission the appeal site boundary to Thomond Place to the north shall be suitably repaired and maintained thereafter.

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

3. The site shall be landscaped, using only indigenous deciduous trees and hedging species in accordance with details which shall be submitted to and agreed in writing with the planning authority within two months of the date of permission. The scheme shall include the establishment of a hedgerow along the rear boundaries of the site.

Reason: In the interest of residential and visual amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. 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 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 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.

Bríd Maxwell

Planning Inspector

18th August 2017