



An
Bord
Pleanála

Inspector's Report PL91.249374

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| Development | To construct a two-storey extension to the rear and side of a dwelling house, including conversion of existing garage to living space, modifications to the front elevation, and front porch, and ancillary works. |
| Location | No. 5 Dun an Óir, Milford Grange, Castletroy, Limerick. |
| Planning Authority | Limerick City & County Council |
| Planning Authority Reg. Ref. | 16/1199 |
| Applicant(s) | Marian Loughman |
| Type of Application | Permission |
| Planning Authority Decision | Grant subject to conditions |
| Type of Appeal | Third Party v. Decision |
| Appellant(s) | Louise Murray |
| Observer(s) | Plassey Residents Association |
| Date of Site Inspection | 18 th December, 2017 |
| Inspector | Robert Speer |

1.0 Site Location and Description

1.1. The proposed development site is located at Dun an Óir within an established residential area known as Milford Grange, approximately 4.0km east of Limerick City Centre, in the outer suburb / village of Castletroy. The surrounding area is characterised by a conventional suburban housing estate which is predominantly composed of two-storey detached / semi-detached dwelling houses of varying designs set around a series of cul-de-sacs. The site itself has a stated site area of 0.023 hectares, is rectangular in shape, and is presently occupied by a two-storey, semi-detached dwelling house (with a single storey annex to the side of same) which is based on a conventional design with front and rear garden areas and off-street parking.

2.0 Proposed Development

- 2.1. The proposed development consists of the conversion into living accommodation of the garage area within the single storey annex to the side of the existing dwelling house and the construction of a two-storey extension to the side and rear of the main residence. It is also proposed to undertake various modifications / alterations to the front elevation of the property such as the replacement of the existing garage door with a window and the provision of a new front porch area.
- 2.2. In response to a request for further information, amended proposals were submitted whereby the overall size and scale of the proposed extension were reduced. In this respect the first floor extension proposed to the side of the main dwelling house was reduced by lowering its roof ridge line and by stepping back the new construction from the established front and side building lines. In addition, the width, depth and height of the proposed two-storey rear return was also reduced.

3.0 Planning Authority Decision

3.1. Decision

Following the receipt of a response to a request for further information, on 13th September, 2017 the Planning Authority issued a notification of a decision to grant

permission for the proposed development subject to 10 No. conditions which can be summarised as follows:

- Condition No. 1 - Refers to the submitted plans and particulars.
- Condition No. 2 – Requires the submission of revised drawings within one month of the date of the notification, and prior to the commencement of development, detailing the following amendments:
- A more suitable proportion for the proposed first floor dormer window.
 - The omission of the window on the side (west) elevation (as indicated on Drg. No. Rev: 18/08/17) and the chimney on the rear (north) elevation.
- Condition No. 3 – Requires any attic spaces to be used solely for storage purposes whilst the first floor side window is to be glazed in obscure glass.
- Condition No. 4 – Requires appropriate measures to be taken to ensure that no damage is caused to any adjoining property during the construction phase. In addition, no rainwater goods are to overhang neighbouring property.
- Condition No. 5 – Refers to construction management, including hours of operation, surface water drainage, and the provision of on-site car parking during the construction phase.
- Condition No. 6 – Refers to noise levels.
- Condition No. 7 – Refers to surface water drainage.
- Condition No. 8 – Requires external finishes to match the existing dwelling house.
- Condition No. 9 – Refers to the submission of a construction waste management plan.
- Condition No. 10 – Prohibits any construction over watermains or common pipes / sewers.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports:

An initial report recommended that further information should be sought in respect of a number of issues, including a requirement to submit revised proposals whereby the design of the proposed extension would be amended in order to be subordinate to the main dwelling house. Concerns were also raised as regards the potential for the encroachment and overshadowing of neighbouring property, the requirement to submit a 'Design Statement', and the need to address the contents of a third party objection.

Following the receipt of a response to the request for further information, a final report was prepared which concluded that the amended proposals were acceptable before recommending a grant of permission, subject to conditions.

3.2.2. Other Technical Reports:

None.

3.3. **Prescribed Bodies**

Irish Water: No objection, subject to conditions.

3.4. **Third Party Observations**

A single submission was received on behalf of the appellant and the principle grounds of objection contained therein can be summarised as follows:

- Detrimental impact on the residential amenity of the neighbouring property by reason of overlooking, loss of privacy, overbearing appearance, dampness and overshadowing / loss of light.
- No construction is permitted to take place over the shared boundary wall.
- The objector does not consent to any access to their property in order to plaster the proposed extension.
- Concerns as regards possible noise levels attributable to future tenants of the extended dwelling house.
- Devaluation of property.

4.0 Planning History

4.1. On Site:

None.

4.2. On Adjacent Sites:

None.

4.3. On Sites in the Immediate Vicinity:

PA Ref. No. 03/1471. Was granted on 6th November, 2003 permitting Mary McGuinness permission for the construction of an extension comprising a bedroom and disabled bathroom at 1 Dun an Oir, Milford Grange, Castletroy, Limerick.

PA Ref. No. 03/1989. Was granted on 22nd January, 2004 permitting Gareth Drummond permission for the retention of conversion of garage to bedroom, extension of kitchen and extension to rear and side of dwelling at 19 Dun an Oir, Castletroy, Limerick.

PA Ref. No. 03/2380. Was granted on 19th August, 2004 permitting Patricia Moloney permission for the construction of alterations and extension to existing two storey dwelling to make additional two storey dwelling with associated landscaping and services at 43 Dun an Oir, Milford Grange, Castletroy, Limerick.

PA Ref. No. 08/690. Was granted on 3rd July, 2008 permitting David Jones permission for (a) construction of a tiled pitched roof over existing flat roof with Velux type rooflights (b) conversion of a ground floor bedroom back into a garage (c) construction of a single storey rear extension and internal modifications, all at No. 25 Avilla, Milford Grange Castletroy, Limerick.

4.4. Other Relevant Files:

PA Ref. No. 11/554 / ABP Ref. No. PL91.239531. Was granted on appeal on 22nd March, 2012 permitting Denis O'Brien permission for the construction of a two-storey extension to the side of dwelling, and associated site works at 7 Compostella, Milford Grange, Castletroy, Limerick.

PA Ref. No. 15/73 / ABP Ref. No. PL91.244947. Was granted on appeal on 31st August, 2015 permitting Timothy O'Donovan permission for the construction of a

dormer style extension to gable of existing dwelling together with modification of front façade and associated site works, all at 16 Dun an Oir, Castletroy, Limerick.

5.0 Policy Context

5.1. Development Plan

5.1.1. Limerick County Development Plan, 2010-2016:

Chapter 4: Housing:

Section 4.2: *General Housing Policies:*

Policy HOU P 3: High Quality Living Environment:

It is policy of the Council to promote high quality living environments in the interest of quality of life and sustainable communities.

Chapter 10: Development Management Standards:

Section 10.5.7: *House Extensions*

In assessing an application for a house extension, the Planning Authority will have regard to the following: -

- ‘Sustainable Residential Development in Urban Areas’, 2009 and the accompanying ‘Urban Design Manual – A Best Practice Guide’ in considering the existing site density and remaining private open space.
- High quality designs for extensions will be required that respect and integrate with the existing dwelling in terms of height, scale, materials used, finishes, window proportions etc.
- Pitched roofs will be required except on some single storey rear extensions. Flat roof extensions visible from public areas will not normally be permitted.
- Impact on amenities of adjacent residents, in terms of light and privacy. Sunlight and daylight assessment may be required.
- Effect on front building line - extensions will not generally be allowed to break the existing front building line. However, a porch extension which does not

significantly break the front building line will normally be permitted. In terrace and semi-detached situations, extensions which significantly protrude beyond the front building line and/or along the full front of the house will not be permitted.

- Ability to provide adequate car parking within the curtilage of the house.
- On unsewered sites, where an extension increases the potential occupancy of a house, the adequacy of the sewage treatment and disposal facilities should be demonstrated by the applicant. It may be necessary with significant extensions to relocate an existing septic tank or proprietary system and percolation area to comply with environmental and public health requirements.
- Regarding the subdivision of a dwelling to accommodate a dependent relative refer to Chapter 3 – Rural Housing Policies and Chapter 4 – Housing.
- The sub-division of a dwelling by means of an extension or conversion of part of a dwelling for the purposes of providing rental accommodation will not be permitted.

5.1.2. Castletroy Local Area Plan, 2009-2015 (extended until June, 2019):

Land Use Zoning:

The proposed development site is zoned as *'Established Residential'* with the stated land use zoning objective *'to ensure that new development is compatible with adjoining uses and to protect the amenity of existing development areas'*.

It is the policy of the Council to:

- Promote development that supports the predominant land use in the surrounding area;
- Accommodate a range of other uses that support the overall residential function of the area where an acceptable standard of amenity can be maintained and where the amenities of existing residents/occupiers are protected;
- Encourage a high standard of residential design in new residential developments and to improve permeability and accessibility;

- Discourage the expansion or intensification of existing uses that are incompatible with residential amenity; and
- Have regard to the Urban Development Framework outlined in Section 6 in proposed new developments and appropriate densities as set out in the DEHLG document 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities' (December 2008).

Other Relevant Sections / Policies:

Chapter 5.0: Development Management Policies

Chapter 6.0: Urban Development Framework

5.2. Natural Heritage Designations

The following Natura 2000 sites are located in the vicinity of the proposed development site:

- The Lower River Shannon Special Area of Conservation (Site Code: 002165), approximately 700m north of the site.
- The River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), approximately 4.7km west of the site.

6.0 The Appeal

6.1. Grounds of Appeal

- The rear garden area of the appellant's neighbouring dwelling house is north-facing and there are concerns that the proposed development will have a negative impact on the already limited levels of sunlight received by same. In this respect the Board is referred to the accompanying drawing (Drg. No. LM/OS/2017/01) dated 5th October, 2017. It is further submitted that the rear walls / windows of the appellant's dwelling house do not receive direct sunlight until approximately 18:30 hours on 21st June and that the proposed extension will further delay their receipt of sunshine at this time of year.

- The appellant's concerns with regard to the possible loss of light / overshadowing are not alleviated by the applicant's assertion that '*sunlight . . . well in excess of 2 hours is available at the centre point of the garden on 21st March . . . [and that this] should alleviate any fears of overshadowing*'.
- The absence of any submission / objection from the owner of No. 7 Dun an Oir is of no relevance to the assessment of the subject application and should not be interpreted as equating to some form of approval of the proposed development.
- It is considered that a single storey extension with a maximum eaves height of 3m and a ridge height of 4.5m would be more appropriate and there would appear to be no impediment to the consideration of same.
- The roof of the subject proposal is incongruous whilst the proposed roof pitches would seem to be unsuitable and possibly unworkable in practice.
- There are particular difficulties with the two-storey section proposed to the rear of the subject site as this will block sunlight from the west and thus will have a negative impact on the appellant's garden area, including that space close to the rear wall of her house.
- Construction of the proposed works will be difficult and there are concerns in this regard.
- Considering that the original proposal involved the construction of a two-storey extension immediately against the party wall, it would have been prudent for some form of informal discussion to have been held with the appellant as regards same.
- There are no other extensions to the rear of dwelling houses in the immediate site surrounds and there are concerns that the approval of the proposed two-storey construction will set a precedent for further extensions of notable height.
- The proposed development will result in the devaluation of the appellant's property.

- There are concerns that the property in question may be made available for rent and that the rooms identified as 'playroom' and 'living room' may actually be used as bedrooms in any rental accommodation.

6.2. Applicant's Response

- The response to the request for further information was accompanied by an analysis undertaken in accordance with Section 3.3. of BRE Guidance Document '*Site Layout Planning for Sunlight and Daylight*' which demonstrates that the proposed extension will have a minimal impact on the availability of sunlight within the garden of No. 3 Dun an Oir.
- Section 3.3 of BRE Guidance Document '*Site Layout Planning for Sunlight and Daylight*' states that any development works should not restrict the availability of sunlight in an adjoining garden to less than 2 No. hours on the 21st day of March and in this regard it is submitted that the proposed development will allow for well in excess of this minimum requirement.
- The BRE Guidance Document requires sunlight analysis to be undertaken for the 21st March and not during June or December as has been stated in the grounds of appeal. It should also be noted that the analysis is based on the availability of sunlight at the centre point of the rear garden area as per the guidance and not at the rear north-facing wall of the appellant's dwelling house.
- The reference to the absence of any submission from the owner / occupant of No. 7 Dun an Oir is merely a statement of fact. Furthermore, given that the owner / occupant of that property was afforded the opportunity to comment on the subject application it may be surmised that the absence of any objection etc. from that party would amount to a form of approval for the development as proposed.
- By way of clarity, the Board is advised that the applicant consulted with the appellant prior to the lodgement of the planning application and that Ms. Murray indicated she had no objection to the proposal.

- The roof height of the proposed extension is governed by the need to provide for a new master bedroom within the existing dwelling house. A single storey extension would not provide the floorspace required.
- The amended proposal submitted in response to the request for further information no longer abuts the shared boundary wall.
- The applicant will be required to complete the works in accordance with the planning and building regulations. The development may also be subject to inspection by the Building Control Section of the Local Authority and will have to comply with the Building Control Regulations introduced in March, 2014.
- There are many other examples of properties in the surrounding area which have been extended / improved in recent years. In this regard, the subject proposal is deemed to accord with the proper planning and sustainable development of the area.
- Contrary to the grounds of appeal, it is considered that the upgrading and modernisation of dwellings will serve to increase the value of properties in the area.
- Many of the existing properties in the estate have been upgraded / extended and as such the gradual modernisation of dwellings in the area is ongoing. The utilisation of modern building materials and methods will serve to improve energy efficiency thereby resulting in higher BER certification values. This is just one example of how such works will benefit property values in the area.
- It is the applicant's intention to use the existing dwelling house as her own private residence. This may or may not change in the future.
- The suggestion that the proposed playroom and living room will be used as bedrooms at this time is rejected.

6.3. Planning Authority's Response

None.

6.4. Observations

6.4.1. Plassey Residents Association:

- The nature and size of the development proposed is considered to be inappropriate.
- The applicant has misrepresented the attitude of the neighbouring property owner at No. 7 Dun an Oir to the proposed development.
- The site notice was not suitably displayed.
- The planned overdevelopment of the site is not appropriate for a single dwelling house and is more comparable to a commercial form of development.
- The proposed development would set an undesirable precedent for similar unregulated extensions in the area.

7.0 Assessment

7.1. From my reading of the file, inspection of the site and assessment of the relevant local, regional and national policies, I conclude that the key issues raised by the appeal are:

- Overall design and layout
- Impact on residential amenity
- Appropriate assessment
- Other issues

These are assessed as follows:

7.2. Overall Design and Layout:

7.2.1. The proposed development involves the conversion into living accommodation of an existing garage area within a single storey annex to the side of the main dwelling house and the construction of a two-storey extension to the side and rear of the main dwelling house (*N.B.* In the interests of clarity, it should be noted that these works will also entail the construction of a first floor extension over the existing side (garage) annex and associated modifications / alterations to the front elevation of the

property such as the replacement of the existing garage door with a window and the provision of a new front porch). Notably, whilst the initial design of the first floor extension over the existing garage area sought to match the ridge height of the main dwelling house with the construction to follow the established front and side building lines, the amended proposals submitted by the applicant in response to a request for further information have reduced the overall size and scale of this element of the proposal by lowering its ridge line and by stepping the new construction back from the established building lines with the result that the new 'dormer' side extension is clearly distinguishable from (and subordinate to) the main dwelling house. It is of further relevance to note that the overall size, scale and massing of the two-storey return proposed to the rear of the existing property has also been reduced in response to the request for further information.

7.2.2. Having regard to the foregoing, the limited size and scale of the proposed extension (as amended), and the surrounding pattern of development, with specific reference to those instances of comparable extensions which have previously been permitted and / or constructed to the side of properties in the immediate vicinity of the application site (such as at Nos. 14 & 16 Dun an Oir), it is my opinion that the overall design of the proposed development is acceptable and will not unduly detract from the visual amenity or character of the wider area.

7.3. **Impact on Residential Amenity:**

7.3.1. Concerns have been raised by the occupant of the neighbouring dwelling house to the immediate east of the subject site that due to the overall design, height and positioning of the proposed development relative to her property, it will have a detrimental impact on the residential amenity of her dwelling house by reason of overshadowing / loss of sunlight / daylight.

7.3.2. In assessing the impact, if any, of a proposed development on the amenity of an adjacent property and, in particular, the potential for a loss of light or overshadowing, it is necessary to consider a number of factors including the height of the structures concerned, their orientation, the separation distances involved and their positioning relative to each another. Accordingly, having considered the submitted information, in my opinion, it is likely that the proposed construction (as amended), by reason of its overall height and proximity to the site boundary, will result in some diminution in

the amount of direct sunlight / daylight received by the appellant's rear garden area, particularly in the winter months when the sun is at its lowest, however, I would suggest that any such impact must be taken in context. In this respect I would advise the Board in the first instance that the subject site is situated in an urban area where some degree of overshadowing would be not unexpected. Secondly, I am unconvinced that the reduction in the amount of direct sunlight received by the appellant's property consequent on the proposed development would have a significant impact on the enjoyment on the wider amenities of her dwelling house given that the front elevation of same will continue to receive direct sunlight / daylight throughout most of the day whilst the rear garden area will also continue to receive sunlight throughout a significant proportion of the day. In addition, whilst I would concede that the rear elevation of the appellant's property is north-facing and thus receives limited (if any) direct sunlight, it will nevertheless continue to receive reasonable levels of daylight whilst the ground floor level accommodation, which is most likely to be impacted by any loss of light attributable to the subject proposal, would seem to be occupied by a kitchen area which would not typically have the same amenity requirements in terms of sunlight / daylight as would be associated with other living accommodation (e.g. sitting rooms, conservatories etc.). Furthermore, I would suggest that the amended design of the proposed development as submitted in response to the request for further information, with particular reference to the reduction in the overall scale, height and massing of the proposed construction and the decision to set back the extension from the boundary line, has taken adequate cognisance of the need to preserve the amenity of the appellant's property and achieves an acceptable balance.

- 7.3.3. Accordingly, on the basis of the foregoing, it is my opinion that the impact of any loss of direct sunlight from the appellant's property arising as a result of the proposed development would be of limited significance given the wider level of amenity enjoyed on site and does not warrant a refusal of permission.
- 7.3.4. With regard to the potential for the proposed development (as amended) to overlook adjacent property, I am satisfied that there is sufficient separation distance between the rear elevation of the proposed extension and that of the dwelling houses to the immediate north, so as to avoid impacting on the residential amenities of same by way of overlooking or a loss of privacy. Similarly, there will be no impact on the

neighbouring property to the east due to the absence of any east-facing first floor windows in the proposed development. However, I would have some reservations as regards the inclusion of a first floor bedroom window in the western elevation of the proposed rear extension given the proximity of same to the adjacent property and, therefore, I would consider it prudent to require this window to be omitted (or replaced with a rooflight) or for it to be glazed in obscure glass as a condition of any grant of permission in order to preserve the amenities of the adjacent property to the immediate west.

- 7.3.5. In relation to the appellant's concerns that the construction of the proposed development may interfere with or undermine the property boundary and that the proposed extension may overhang or encroach into the neighbouring property to the immediate north, following a review of the submitted plans and particulars, I would advise the Board that it would appear that the proposed development (as amended in response to the request for further information) will not physically encroach into the adjacent property on the basis that the new construction has been set back from the shared boundary line and will be carried out within the confines of the application site. In any event, it is my opinion that any alleged encroachment or interference with the appellant's property (including any need for access to same in order to allow construction / maintenance of the proposed development) is essentially a civil matter for resolution between the parties concerned and in this respect I would refer the Board to Section 34(13) of the Planning and Development Act, 2000, as amended, which states that '*A person shall not be entitled solely by reason of a permission under this section to carry out any development*' and, therefore, any grant of permission for the subject proposal would not in itself confer any right over private property.

7.4. **Appropriate Assessment:**

- 7.4.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.5. **Other Issues:**

7.5.1. **The Future Use of the Proposed Development:**

Whilst concerns have been raised in relation to the intended use of certain rooms within the proposed extension (possibly as part of rental accommodation), I do not propose to engage in speculation as regards same other than to state that the subject proposal concerns the construction of a domestic extension to an existing dwelling house and that a condition will be attached to any grant of permission to ensure that the existing dwelling and the proposed extension are jointly occupied as a single residential unit.

7.5.2. **Procedural Issues:**

In respect of the submission that the site notice was incorrectly displayed, in my opinion, the consideration of the adequacy of the public notices with regard to the validity of a planning application is also the responsibility of the Planning Authority, however, in this instance it would appear that the rights of interested third parties to make submissions on the application and to subsequently appeal the decision of the Planning Authority have not been prejudiced

8.0 **Recommendation**

- 8.1. Having regard to the foregoing, I recommend that the decision of the Planning Authority be upheld in this instance and that permission be granted for the proposed development for the reasons and considerations and subject to the conditions set out below:

9.0 **Reasons and Considerations**

Having regard to the limited scale of the proposed extension to an existing dwelling, the pattern of development in the area and the provisions of the Limerick County Development Plan 2010-2016, 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 and would, therefore, be in accordance with 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, as amended by the further plans and particulars submitted on the 21st August, 2017, 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 particulars.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:
 - a) The first floor bedroom window within the western elevation of the proposed rear extension shall be omitted and / or replaced by a rooflight, or alternatively, it shall be glazed with obscure glass.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To protect the residential amenity of the adjoining property.

3. The external finishes of the proposed extension (including roof tiles/slates) shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

4. 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.

5. The developer shall take appropriate measures during the construction phase to ensure that no damage is caused to any party boundary wall/fence on site.

All party boundary walls/fences shall be protected during the construction phase and repaired where necessary at the expense of the applicant.

Reason: In the interest of proper planning and sustainable development.

6. During construction of the proposed development, the developer shall comply with the following requirements:-

- a) site works shall not take place on site outside the hours of 0800 to 2000 Monday to Friday and 0800 to 1600 hours on Saturday, Sunday and Bank/Public holidays, unless otherwise agreed in writing with the planning authority, and
- b) adequate car parking facilities shall be provided on site for all workers and visitors.

Reason: To protect the residential amenities of the area in the interest of proper planning and sustainable development.

7. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

Robert Speer
Planning Inspector

29th December, 2017