



An
Bord
Pleanála

Inspector's Report ABP-300058-17.

Development	Permission to construct a single storey extension to side of house and demolish existing boundary wall and construct new boundary along the line of footpath on northern boundary of site.
Location	1 Ballysimon Crescent, Fairgreen, Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	17/392.
Applicant(s)	Lesek Alexandrzak.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party.
Appellant(s)	Lesek Alexandrzak.
Observer(s)	None.
Date of Site Inspection	11 th January, 2018.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The subject site is located in the eastern area of Limerick City, and to the north of the Ballysimon Road. The surrounding area has a mix of uses including some commercial fronting onto the Ballysimon Road, to the south of the subject site, with residential to the west, north and east. Access to the site is off the Ballysimon Road and Fair Green Road. The estate is set back from the road with an area of unused land immediately to the south east of the estate, and terraced houses along the western side of Fair Green Road.
- 1.2. Ballysimon Crescent is a small and well established residential estate comprising 30 semi-detached houses. The site, the subject of this appeal, is no. 1 and is located adjacent to a T junction comprising the access road and the crescent. There is a small area of open space between the existing boundary wall of No. 1 Ballysimon Crescent and the public footpath and access road with an area of approximately 75m². No. 1 Ballysimon Crescent comprises a two storey semi-detached house, with finishes including red brick and smooth plaster.
- 1.3. The site occupies a stated area of 0.0275ha and the existing house has a stated floor area of 142m². The house has been extended in the past and is connected to existing services.

2.0 Proposed Development

- 2.1. Permission is sought to construct a single storey extension to side of house and demolish existing boundary wall and construct new boundary along the line of footpath on northern boundary of site at 1 Ballysimon Crescent, Fairgreen, Limerick.
- 2.2. The proposed extension will provide for a living / dining room and has a stated floor area of 21.6m². The single storey extension will be finished to match the existing house and will be internally connected to the existing house.
- 2.3. Having regard to the submitted layout plans, the Board will note that a grant of planning permission would provide for a potential separate self-contained residential unit. The existing floor plans submitted indicate that the previously permitted extension to the house includes a kitchen area, shower room and separate stairs to the first floor of the previously permitted extension.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed shed for the following stated reason:

The development as proposed and the precedent which a grant of permission would set for similar type development would result in the loss of some of the public open space provided as part of the Ballysimon Crescent residential development. It would also detract from sightlines on a public road and it would result in the loss of a public streetlight. It would injure the residential amenities and be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in terms of the relevant information presented in support of the application, together with technical reports and third party comments. The initial report sought further information while the final report concluded that the development, if permitted, would take place on land that should form part of the public open space of the development and it would interfere with the maintenance and operation of the public lighting standard located thereon. The report concludes recommending refusal and the report formed the basis of the Planning Authority decision to refuse permission.

3.2.2. Other Technical Reports:

Area Engineer: 2 engineer reports are on the Planning Authority file as follows:

1. Issues raised in relation to the reduction in the available sight lines

The proposed development does not indicate how the existing public lighting will be reinstated / relocated

2. It is considered that the open space forms part of the public road notwithstanding the folio submitted.

The Roads Section is not in favour of the boundary being altered as it will unfavourably affect sightlines and public lighting standard and associated ducting.

Irish Water: No objection.

3.2.3. Third Party Submissions:

There is one third party objection to the proposed development from the Ballysimon Crescent Residents. The issues raised are summarised as follows:

- It is believed that the existing boundary wall, constructed by the original developer over 20 years ago, is the true boundary of the property. Any alteration will have a negative impact on the estate both visually and practically.
- Previous permissions on the site show the expected and true boundary of the property.
- The relocation of the boundary wall will decrease visibility around the corner and increase the risk of an accident.

4.0 Planning History

The following is the planning history relating to the subject site:

PA ref 93/770285: Permission granted for the construction of 30 no. semi-detached houses and all ancillary works.

PA ref 07/770411: Permission granted for the construction of a single storey extension to the side of the dwelling, to build a 900mm high wall to the right hand side of the property and 3 piers along the front of the property.

PA ref 08/770406: Permission granted to construct a two store extension onto left hand side of existing dwelling house and all associated site works.

The Board will note that the plans for this extension indicated the provision of two storage rooms, one on each floor, with a shower room at ground floor level.

5.0 Policy Context

5.1. Development Plan

The Limerick City Development Plan, 2010-2016 (As Extended) is the relevant policy document pertaining to the subject site. The site is zoned 2A Residential.

Chapter 16 of the City Development Plan deals with Development Management Standards, including dwelling extensions and granny flat extensions.

The following policy objectives are considered relevant:

- Policy LBR.12:
 - It is the policy of Limerick City Council;
To protect existing green areas and public open spaces, which provide for the passive and active recreational needs of the population;
- Policy LBR.14:
 - It is the policy of Limerick City Council;
To protect, retain, improve and provide for areas of public open space for recreation and amenity purposes.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

This is a first party appeal against the decision of the Planning Authority to refuse permission for the construction of the new shed. The grounds of appeal are summarised as follows:

- The applicant is seeking to carry out works on land which he owns and which should never have been given over to open space in the first place.

- The area of open space being lost is small and is not very useable for recreational purposes.
- The road is an estate road and therefore does not have to conform strictly to design guidelines for public roads. The sight lines are not being distorted and there are dozens of examples where sight lines were considerably worse.
- It is proposed to leave the streetlight in its current location and build an alcove around it.
- The applicant disagrees that the development will in any way injure residential amenity.

It is requested that permission be granted for the proposed development.

6.2. **Planning Authority Response**

The Planning Authority has not responded to this appeal.

6.3. **Observations**

None.

7.0 **Assessment**

Having considered all of the information submitted with the planning application, together with the appeal documentation and responses, and having undertaken a site visit, I consider it appropriate to assess the proposed development application under the following headings:

1. The principle of the development and compliance with current City Development Plan.
2. Roads & Traffic Issues
3. Appropriate Assessment

7.1. Principle of development

Compliance with the Limerick City Development Plan 2010-2016 (As Extended):

- 7.1.1. The Limerick City Development Plan provides guidance in terms of dwelling extensions as well as granny flat extensions. Having regard to the nature of the proposed development, it is clear that if permitted, a self-contained residential unit will potentially be created. This was confirmed by the applicant during my site inspection who advised that the additional space was for his son.
- 7.1.2. The subject site is located within an established residential area, being a semi-detached house located on a corner site and I would not have any objections in principle to the proposed design or the extension. In terms of the possible provision of a separate residential unit, I would be satisfied that this issue could be appropriately dealt with by way of condition, in terms of its use and occupancy. I am satisfied that, in principle, the proposed development of a residential extension can be considered acceptable. There are however, additional policy objectives which are required to be considered in the assessment of this proposed development.
- 7.1.3. The site, the subject of this appeal includes an area of existing public open space. While the applicant has advised ownership of the piece of ground, the open space area has been in place since the original estate was constructed during the 1990s. I am therefore satisfied that the area comprises part of the estates open space provision.
- 7.1.4. Chapter 11 of the Plan deals with Landscape, Biodiversity & Recreation and Policy LBR.12 states that it is the policy 'to protect existing green areas and public open spaces, which provide for the passive and active recreational needs of the population. In addition, Policy LBR.14 states that it is the policy of the City Council 'to protect, retain, improve and provide for areas of public open space for recreation and amenity purposes.' Given that the proposed development seeks to remove an existing open space area, it might reasonably be considered that the proposed development fails to accord with the above objectives.
- 7.1.5. I note the submission of the appellant in relation to the proposed development and while the appellants may not consider the existing public open space to be of any quality to facilitate a useable area for recreational purposes, it is clear that the green area, not necessarily intended for play rather passive recreation and visual amenity,

has been designed into the overall residential estate. I suggest that the area, at the entrance to the estate, also adds to the character and visual amenity of the area.

7.1.6. In addition to the above, I would note that the open space area, the subject of this appeal, has been included in the area of the estate which appears to have been taken in charge by Limerick City & County Council – the Roads Engineer refers to the estate road as a public road. I was unable to find a precedent where the Board permitted an area of public open space being incorporated into a private residential site. I would also note that the issue with the proposed extension, in my opinion, is not in terms of the visual impact associated with same, rather the encroachment onto a public open space area, as permitted under the parent permission for the overall site, PA ref 93/770285. I was unable to see the conditions attached to the parent permission but having regard to the planning history associated with the subject site, together with the layout of the wider estate, I am satisfied that the area of open space was clearly intended. Therefore, the development as proposed, would contravene the terms and conditions of this parent permission in this regard.

7.1.7. Having regard to the above, I am satisfied that the development, if permitted, would be contrary to the policy objectives of the Limerick City Development Plan which seeks to protect existing areas of open space, and notwithstanding the submission of the appellant to the contrary, would set an undesirable precedent for similar type developments in the vicinity. The Board will note that the issue of non-compliance with the City Development Plan may be considered as a new issue.

7.2. Roads & Traffic Issues:

7.2.1. The proposed development site is located on a corner of an existing T junction within the Ballysimon Crescent estate. If permitted, the new boundary wall will be relocated to adjacent to the public footpath and closer the public road. The Roads Engineer for Limerick City & County Council has submitted concerns that if permitted as proposed, the development will result in existing sight lines being affected. Issues were also raised in relation to the impact on public lighting.

7.2.2. Having undertaken a site visit, I acknowledge the concerns of the Planning Authority in this regard. As such, I accept that the development, particularly of the proposed relocated boundary wall adjacent to the footpath, would impact on the available

sightlines from within the crescent. In particular, the development would increase the hazard for the occupants of No. 1 the Crescent, given the location of the entrance to the site in such close proximity to the junction. While I acknowledge the submission of the appellant in support of the proposed development, including photos of similar situations in other estates in Limerick, I am satisfied that if permitted, the development would give rise to a traffic hazard.

7.3. **Appropriate Assessment:**

Given the location of the subject site within an established and mature residential area, together with the nature of the proposed development, being a residential extension, I am satisfied that there is no potential for impact on any Natura 2000 site, warranting AA.

8.0 **Recommendation**

I recommend that planning permission be refused for the proposed development for the following stated reasons:

9.0 **Reasons and Considerations**

1. Having regard to the character and layout of overall residential estate development, it is considered that the development if permitted, would result in the incorporation of an area of public open space into a private residential site for a private purpose which is not ancillary or complimentary to the open space function. The proposed development would, therefore, be contrary to the Limerick City Development Plan, 2010-2016 (as extended) and specifically, Policy LBR.12 which provides that it is the policy of the City Council *to protect existing green areas and public open spaces, which provide for the passive and active recreational needs of the population* and Policy LBR.14 which states that it is the policy of the City Council *to protect, retain, improve and provide for areas of public open space for recreation and amenity purposes*, and would be contrary to the proper planning and sustainable development of the area.

2. Having regard to the cumulative beneficial impact of the subject minor open space area to the overall environment of the housing estate, the Board considered that the development would contravene the terms and conditions of the parent planning permission for the overall residential estate, 93/770285 refers, as the development would encroach on lands which have been provided as public open space serving the overall estate. The Board considers that a grant of planning permission in this instance, and notwithstanding the submissions provided as part of the appeal document, would set an undesirable precedent for similar type developments in this mature and established residential estate. The proposed development, therefore, if permitted would be contrary to the proper planning and sustainable development of the area.
3. The development, if permitted, would result in a traffic hazard by reason of inadequate sight distances arising due to the location of the relocated boundary wall. The development would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Planning Inspector

17th January, 2018