



An  
Bord  
Pleanála

## Inspector's Report ABP-300136-17

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<b>Development</b>	Construction of 3 storey residential building, connection to necessary services, boundary treatments and all associated site works.
<b>Location</b>	Royal Parade, Killaloe, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	P/17/34
<b>Applicant</b>	Cos Egan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission with Conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Mary Gough
<b>Date of Site Inspection</b>	22 <sup>nd</sup> Feb 2018.
<b>Inspector</b>	Dolores McCague

## **1.0 Site Location and Description**

- 1.1. The subject site is located at Royal Parade, Killaloe, Co Clare. The site is part of a terrace of buildings front the street edge along the western side of the street, where it is located between a wide three storey residential building and a narrower two storey commercial building to the south. St Flannan's Cathedral, an important gothic style church set in its own grounds behind a masonry boundary wall forms the opposite side of the street. St Flannan's Well is located in a green to the rear of the site.
- 1.2. The site has been cleared of whatever building previously stood there, which clearance work was carried out several years ago. A timber hoarding closes off the site from the street.
- 1.3. The building to the north, appears to be of recent origin and extends for less distance from the street than the current proposal. The building to the south extends further from the street.
- 1.4. The site is given as 0.00968 ha.

## **2.0 Proposed Development**

- 2.1. The proposed development is described as the construction of a 3 storey residential building, connection to necessary services, boundary treatments and all associated works.
- 2.2. The proposed building comprises 2 large rooms together with a smaller room(s) on each floor. The kitchen/dining and sitting rooms are at ground floor and there are 2 bedrooms at each level above. The total floor area is given as 201.3m<sup>2</sup>.

## **3.0 Planning Authority Decision**

### **3.1 Decision**

- 3.2. The planning authority decided to grant permission subject to 8 conditions including no. 2

- a) All external doors shall be of solid painted timber. All external windows shall be of painted timber and windows on the front elevation shall be up and down sliding sashes. No aluminium or uPVC windows are permitted on the front elevation.
- b) The roof shall be finished in natural quarry slates (salvaged or new) black, dark grey or blue/black in colour. The colour of the ridge tile shall be plain black and shall be of concrete or clay manufacture without raised edges or ribs.
- c) The rain water goods shall be affixed to an advanced eaves course of render or concrete without fascia or soffit. Details of rain water features to include a front elevational drawing identifying same shall be submitted to the planning authority for agreement prior to development commencing on site.
- d) The proposed oriel window, on the front elevation shall be wooden manufacture and covered with natural quarry slate.
- e) No changes are permitted to the agreed window sizes materials or designs. No neo-Georgian style plastic glazing bars or other decorations are permitted. Cills shall be 'bull nosed' 4 inches (100mm) deep.
- g) The gable verges shall be plastered to the underside of the slate, without under or over barges.

The side and front facings of dormer windows shall have a painted plaster finish.

No floodlighting of the proposed development is permitted.

The dummy false chimneys shall be constructed of masonry and shall be no less than 1 metre wide (front to back).

Reason: In the interests of visual amenity and in order to ensure a standard of materials and finishes appropriate to this area.

4 groundworks to be monitored by an archaeologist.

3.3. The decision to was in accordance with the planning recommendation.

### 3.4. **Planning Authority Reports**

3.1. Planning Report:

- 3.2. There are two planning reports on this file; the first, leading to a further information request, notes the history of the site and that the site is located within an Architectural Conservation Area.

The proposal is for a 3 storey unit with a ridge height of 9.62m between a dwelling of 9.289m and a lower unit of 5.7m. The fenestration is somewhat confused and is not symmetrical and presents an oriel window. The height and streetscape is not sympathetic to the ACA and opposite St Flannans Church. Private open space of 12 sq m is considered acceptable considering its central location. No details have been provided of the rear and side boundaries. The proposal extends 1.5m past the rear of the adjacent dwelling which was considered not to affect unduly the residential amenities of the adjacent dwelling. Further Information was recommended on 5 points: 1 height and external appearance; 2 archaeology; 3 address concerns regarding overshadowing overbearing impact, and full details of party walls; 4 proposals to comply with Part V; and 5 details of boundary treatment.

- 3.3. The report included an appropriate assessment screening.

#### 3.4. Other Technical Reports

##### 3.1. Architectural Conservation Officer/Archaeologist:

- 3.2. Archaeological Impact Assessment prepared in 1998 was not submitted. This should be submitted or another prepared. There appears to be no material specification included with the application and the planning authority has not been informed of the materials proposed for ridges, roof covering, eaves treatment, fascias, soffits, windows, dormer ridges, cills, doors, etc.

- 3.3. These should be natural materials and comply with ACA policies, e.g. roof covering, eaves treatment, fascias, soffits, windows, dormer ridges, cills and doors.

#### 3.4. **Prescribed Bodies**

##### 3.5. DAHRRGA

It is noted that the proposed development is adjacent to recorded monuments Holy Well, Sheela-na-gig, Cathedral and Graveyard within the zone of archaeological potential established around the historic town of Killalloe. These recorded monuments are subject to statutory protection.

Archaeological Impact Assessment to be prepared.

### 3.6. Further Information Request & Response

3.7. A further information request issued on five items as set out in the planner's report.

3.8. The response to the further information request received 12/6/17 includes revised drawings, a copy of the 1998 archaeological report which reported on three trench cuttings on the site; and confirmation that the site, being less than 0.2ha, should not be subject to Part V.

The revisions include revised plans showing a reduced overall building height and a floor to ceiling height at second floor of c2m rather than the 2.4m in the original drawings.

### 3.9. Further Reports

3.10. DAHRRGA – conditions.

3.11. Planning report

The planner's report addresses the further information submissions item by item.

- Regarding item 1 the details were reviewed by the Conservation Officer who is satisfied that the submitted details address his concerns. Contiguous streetscape drawing is required.
- 2 The Department is satisfied.
- 3 clarification is required, overshadowing analysis based on summer and winter sunlight levels which clearly demonstrates overshadowing levels and any potential increases in overshadowing that may occur with windows to the rear of the adjoining property to the north to be identified.
- 5 satisfactory
- Recommending further clarification on two items, which issued.

3.12. A request for further clarification was issued 17/7/2017 on two points:

- With regard to point no. 1 of the further information request, the roof profile of the proposal has not been clarified in the context of the adjoining structure to the south. Submit proposals including a contiguous streetscape drawing.
- With regard to item no. 3 of the further information request, the impact in terms of overshadowing/overbearing in particular to the north has not been adequately addressed. Submit an overshadowing analysis based on winter and summer time sunlight levels which clearly demonstrates overshadowing levels and any potential increases in overshadowing that may occur as a direct result of the proposed works. The windows to the rear of the adjoining property to the north to be identified in the model.

3.13. The response (14<sup>th</sup> September 2017) included drawings showing the contiguous streetscape and sunlight and daylight impact.

3.14. The final planning report recommends permission subject to 8 conditions.

3.15. The decision is in accordance with the planning recommendation.

### 3.16. **Third Party Observations**

3.17. A third party observation on the file has been read and noted.

## 4.0 **Planning History**

Site:

16/863 incomplete application.

12/53 to extend the appropriate period of planning permission P06/2661 for construction of 3 floor development – expired 24/07/17.

06/2661 - 3 floor development at Royal Parade consisting of ground floor commercial, first floor commercial and second floor residential.

06/305 - to construct a new three storey terraced house with attached garage on ground level and ancillary site works, to replace old derelict house – permission granted.

04/1593 – withdrawn.

Adjacent to north:

06/305 - to construct a new three storey terraced house with attached garage on ground level and ancillary site works to replace old derelict house. Withdrawn.

AIB site:

05 2071 retention of change of use of first floor living accommodation to office use together with ancillary works and services – granted.

## **5.0 Policy Context**

### **5.1. Development Plan**

5.2. The Clare County Development Plan 2017-2023 is the operative plan. Relevant provisions include:

5.3. In Killaloe Municipal District, plan area;

The site is zoned mixed use.

Killaloe is long recognised as a very attractive place to live, rich in natural beauty and amenity, and all within commuting distance of Ennis and Limerick. In order to make adequate provision for housing, lands have been identified within the town of Killaloe as being suitable for residential use. There is limited scope for further residential development within the town until such time as the wastewater treatment plant serving the area is upgraded. Proposals to upgrade the Ballina WWTP are being developed by Irish Water.

### **5.4. Natural Heritage Designations**

5.5. The Lower River Shannon SAC site code 002165, is the nearest Natura site, situated c150m from the subject site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

6.2. The appeal by Emer Butler Architects on behalf of the third party includes:

- The third party is very much in favour of development of the site.
- The original proposal did not achieve a high standard of design.
- The third party is particularly concerned with the significant projection beyond the rear building line. These properties have no front gardens and the private open space is of utmost importance to her.
- The requested further information was not supplied. The planning authority made a decision without sufficient information.
- Of the four items in item 1 of the request, only two were addressed: a minor reduction in the overall height by only 600mm and revisions to the front elevation. There is no material specification and no mention of the oriel window.
- No information is given on how the reduction in height is to be achieved. It appears to be reduced floor to ceiling height of the second floor, to such an extent that it would not comply with the Building Regulations, however no floor to ceiling heights are given. The proposed elongation of the windows serving this floor seem to suggest that the window cills will be at floor level.
- The rear contiguous elevation was not provided, detailed material specifications was not provided and the roof profile relative of adjoining structures was not provided. A side elevation indicating how the proposed roof profile meets adjoining roofs should have been provided, as a minimum, as the differing eaves heights should be capable of being visually assessed.
- Absolutely no information was submitted in response to item no. 3. The third party thought this would reduce the footprint of the proposal such that the proposed rear building line would line up with the rear building line of her house. The house requires replanning. There is no wheelchair accessible WC. Since the rooms are particularly long they would benefit from additional



daylight penetration by being reduced in length and the additional rear garden would benefit future occupants.

- The response to item 5 was inadequate. The third party would have preferred a rendered wall on her side and there is no reference to capping.
- The clarification of further information focused on two items.
- The wording suggests a geo-located 3D model, showing shadows for various days and times, which they could understand. The impact assessment submitted may be accurate but it is impenetrable and does not alleviate the first party's concerns.
- It does appear to show a reduction in sunlight available and vertical sky component.
- Only the ground floor windows / external doors were identified.
- The rooms which will be impacted are single aspect.
- Any diminution of sunlight to the rear garden should have been avoided; aligning the rear building line of the proposed development with the building line of the first party's property.
- The drawings / documents do not meet the standard that should be expected of a proposed infill in an ACA. The front elevation by virtue of the type of dormer windows proposed will require 3 rainwater pipes. These should have been indicated on the elevational drawings, or an alteration to the design to accommodate a reduction in the number of rainwater pipes could have been proposed.
- Condition 2 (c), to agree rainwater features, is too late for an examination of other options.
- The front door does not line up with the windows overhead and the ground floor windows are inappropriately located and sized.
- The second floor bedrooms in the revised drawings appear to be below the building regulation height and the location of the head and cills of the windows in the rooms would appear to mitigate against the use of up and down sash as

they would not comply with the building regulations in terms of both means of escape in fire / protection from falling.

- They request the Board to seek an improved design which does not extend beyond the first party's rear building line and with more detailed drawings; or to condition the issues raised.

### 6.3. **Applicant Response**

The applicant has not responded to the grounds of appeal.

### 6.4. **Planning Authority Response**

6.5. The Planning Authority have responded to the grounds of appeal, including:

- They are satisfied that the design of the structure is suitable for this delicate location within the Killaloe Architectural Conservation Area. The proposal was reviewed by the Conservation Officer who inputted into the assessment of the proposal and whose design concerns were addressed by the further information received in relation to the proposed design.
- The proposal will have some impact on the amenity of the adjoining property, related only to the morning sun and will not affect the mid day/evening sun. having regard to the nature of the development in a built-up area this is deemed acceptable.
- This is a prominent infill site in the town of Killaloe and its appropriate development will greatly enhance the streetscape.

## 7.0 **Assessment**

7.1.1. The issues which arise in relation to this appeal are appropriate assessment, residential amenity, the standard of development, and design/conservation area and the following assessment is dealt with under these headings.

## 7.2. **Appropriate Assessment**

- 7.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

## 7.3. **Residential Amenity**

- 7.4. The third party, whose dwelling adjoins the site to the north is concerned with various aspects of the proposed development which may impact on the residential amenities of her property and the visual amenities of the area.

### 7.5. Daylight

- 7.6. The third party is concerned that the proposed development will lead to loss of light to the rear of her property since it projects beyond the rear wall; she refers to the fact that there is no front garden and her rear yard is therefore important; and she request the setting back of the rear building line to be in line with her dwelling.

- 7.7. The proposed development extends approx. 1 ½ m beyond the dwelling to the north but the building to the south extends further back.

- 7.8. A daylight study was provided in response to the planning authoritys request, which uses a skylight indicator to assess a ground floor window and the loss of light which will arise. The assessment states that the existing vertical sky component at the window is 38% and that the proposed development will cause a reduction to 33.5% which will not be a reduction to below 0.8 times the previous value.

- 7.9. The BRE document Site Layout Planning for Daylight and Sunlight: A guide to good practice, PJ Littlefair, 1998, refers to the vertical sky component and provides a skylight indicator which is similar to that used in the assessment of daylight impact. The guidance states that if the *'vertical sky component is greater than 27% then enough skylight should still be reaching the window of the existing building. Any reduction below this level should be kept to a minimum. If the vertical sky component, with the new development in place, is both less than 27% and less than*

*0.8 times the former value, then occupants of the existing building will notice the reduction in the amount of skylight'.*

- 7.10. As the vertical sky component is 35.5% no concern arises in relation to reduction in available daylight.
- 7.11. The sunlight availability indicator used in the assessment of sunlight impact is stated to be based on BS: 8206 (British Standard). BS: 8206 is referred to in the BRE document Site Layout Planning for Daylight and Sunlight: A guide to good practice, PJ Littlefair, 1998 and is the standard used in the document as the measure of acceptable/unacceptable sunlight impact. BS: 8206 recommends that at least 25% of annual sunlight hours be available at the reference point, including at least 5% in the winter months Sept 21 to March 21. The assessment states that the total percentage of probable sunlight hours has been calculated as 51% of which 37% is in the winter months, satisfying the British Standard requirements.
- 7.12. The BRE document states that *if the window reference point can receive more than one quarter of annual probable sunlight hours...including at least 5% of annual probable sunlight hours during the winter months between 21 September and 21 March, then the room should still receive enough sunlight.*
- 7.13. The calculation that 51% of probable sunlight hours will be received, of which 37% is in the winter months indicates that no unacceptable impact on sunlight will result from the proposed development.
- 7.14. The assessment therefore indicates that there will be no significant loss of daylight or sunlight arising from the proposed development. Notwithstanding that the BRE document and the British Standard referred to have both been updated, I am satisfied with the assessment provided, although I note that the measurements were carried out with reference to only one of two windows in the most affected room. I accept the overall conclusions reached.
- 7.15. The third party has concerns regarding the boundary to be provided to the rear of the property, stating that she would have preferred a rendered wall on her side and that there is no reference to capping. The details supplied in response to the request for further information, indicate a 1.8m fairfaced block wall to be provided to side boundaries on both the third party's side and the opposite side, and a 1.2m painted wooden picket fence to be provided along the rear boundary. It was noted from the

site inspection that there is an existing block wall surrounding the third party's rear yard and it is therefore unclear how a rendered capped wall could be provided on the boundary. The area to the rear of the site is a green area within which St Flannan's well is located and the proposal to provide a lower fence addressing this area is acceptable.

- 7.16. The third party has concerns regarding the treatment of the roof junctions between the subject development and her property which have not been sufficiently detailed, to her satisfaction. The level of information desired by the third party is not always provided in planning drawings, was not sought from the applicant, and is amenable to control under other regulation. I am satisfied with the level of detail provided.
- 7.17. In my opinion the proposed development would not have an adverse impact on the residential amenities of the area.

#### 7.18. **Standard of Development**

- 7.19. The third party has concerns regarding the standard of development and compliance with the building regulations, questioning how the reduction in the overall height of the building is to be achieved. She points out that it appears to be achieved by a reduced floor to ceiling height of the second floor to such an extent that it would not comply with the Building Regulations and she also states that the proposed elongation of the windows serving this floor seems to suggest that the window cills will be at floor level. Another issue raised is the need for a wheelchair accessible WC.
- 7.20. It is important that the development is of an adequate standard and complies with the Building Regulations. I consider that, with relatively minor modifications, the proposed development would be compliant. In this regard I note that the reduction in overall height arose from the further information request, which stated that the height was considered excessive, having regard to the pattern of development in the area, and that it might serve to dominate the streetscape. This was based on the ridge height of 9.62m and that of the adjoining dwelling to the north of 9.289m and the adjoining building to the south of 5.7m. The revised proposal reduced the ridge height to 9.060m.
- 7.21. It is not entirely clear that such a reduction was necessary.

7.22. I consider that a condition requiring adequate floor to ceiling height at second floor, adequate cill height for windows at this level (subject to whatever other measures are proposed regarding means of escape from fire) and a wheelchair accessible WC, should be submitted to the satisfaction of the planning authority including, if necessary, an increase in the ridge height.

### 7.23. **Design / Conservation Area**

7.24. The third party has concerns regarding the design of development, that it is not appropriate to a conservation area, and her concerns include the rainwater pipes for the dormer windows on the front elevation.

7.25. The drawings provided contain basic information, but they have involved revisions arising from the requirements of the Conservation Officer. Condition no. 2 (c) as drafted requires details of the rainwater features and in my opinion this is acceptable.

7.26. Other quite onerous requirements are set out in condition no. 2 arising from the location of the development in a conservation area, and these have not been appealed by the first party.

7.26.1. In my opinion the proposed development would not have an adverse impact on the visual amenity and conservation value of the area.

## 8.0 **Recommendation**

8.1. In accordance with the foregoing assessment I recommend that planning permission be granted for the following reasons and considerations and in accordance with the conditions set out hereunder.

## 9.0 **Reasons and Considerations**

Having regard to the location of the proposed development on a vacant site, in the centre of the town of Killaloe and within an area designated as a conservation area in the Clare County Development Plan, Killaloe Settlement Plan, it is considered that, subject to the following conditions the proposed development would not unduly detract from the residential amenities of the area, would enhance the visual

amenities of the area and would 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 12<sup>th</sup> day of June 2017 and the 14<sup>th</sup> day of September 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. Prior to the commencement of development revised drawings and other details shall be submitted to the written satisfaction of the planning authority, demonstrating adequate floor to ceiling height at second floor, adequate cill height for windows at this level (subject to whatever other measures are proposed regarding means of escape from fire); and the provision of a wheelchair accessible WC; which details shall include, if necessary, an increase in the ridge height.

**Reason:** To ensure an adequate standard of accommodation.

3.
  - a) all external doors shall be of solid timber and shall be painted. All windows shall be of solid timber and shall be painted, and on the front elevation shall be up and down sliding sashes.
  - b) the roof shall be finished in natural quarry slate (salvaged or new) of black, dark grey or blue / black colour. The colour of the ridge tile shall be

plain black and shall be of concrete or clay manufacture without raised edges or ribs.

c) the rainwater goods shall be affixed to an advanced eaves course of render or concrete without fascia or soffit. Details of rain water features, to include a front elevational drawing identifying same, shall be submitted to the planning authority for agreement prior to development commencing on site.

d) the proposed oriel window shall be wooden manufacture and covered with natural quarry tiles.

e) no changes are permitted to the agreed window sizes, materials or designs. No neo-georgian style plastic glazing bars or other decorations are permitted. Cills shall be bull nosed 100mm (4") deep.

g) the gable verges shall be plastered to the underside of the slate, without under or over barges.

h) the side and front facings of dormer windows shall have a painted plaster finish.

i) no floodlighting of the proposed development is permitted.

j) the dummy/false chimneys shall be constructed of masonry and shall be no less than 1m wide, front to back.

**Reason:** In the interest of visual amenity and in order to ensure a standard of materials and finishes appropriate to this area.

4. The developer shall employ a suitably-qualified archaeologist who shall monitor all site investigations and other excavation works, and should archaeological material be found during the course of the works, work shall cease, pending a decision as to how to deal with the archaeological findings. The developer shall be prepared to be advised by the Department of Culture, Heritage and the Gaetacht with regard to any necessary



mitigating action (e.g. preservation in situ or excavation) and shall facilitate in the recording of any material found.

**Reason:** In order to conserve the archaeological heritage of the site and to secure the preservation and protection of any remains that may exist within the site.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including: traffic management, noise management measures, number and size of vehicles accessing the site and disposal of demolition / construction waste.

**Reason:** In the interest of amenities, public health and safety.

6. The site development works and construction works shall be carried out in such a manner as to ensure that the adjoining street is kept clear of debris, soil; and other material and, if the need arises for cleaning works to be carried out on the public road/laneway, the work shall be carried out at the developer's expense.

**Reason:** To ensure that the adjoining street is kept clean and safe during construction.

7. The site and building works associated with the proposed development shall only be carried out between 0800 hours and 1800 hours Monday to Friday and between 0800 hours and 1400 hours on Saturdays. No development works shall take place on Sundays, Bank or Public Holidays.

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

8. The developer shall pay to the planning authority a financial contribution of €2,787 (two thousand seven hundred and eighty seven euro) 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. The application of any indexation required by this condition 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.

**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.

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Planning Inspector

20<sup>th</sup> March 2018

Appendices

1 Photographs

2 Extracts from Clare County Development Plan 2017-2023