



An
Bord
Pleanála

Inspector's Report ABP-300794-18

Development	Detached house
Location	No. 3 Elm Drive, Caherdavin Lawn, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/747
Applicant(s)	Eamon & Elizabeth Radcliffe
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Ken Ryan & Nuala Ryan Michael & Mary Stanley
Observer(s)	None
Date of Site Inspection	18 th April, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development comprises most of the rear garden of No. 3 Elm Drive, Caherdavin Lawn on the west side of Limerick City. The site contains a grassed area that is accessed from Elm Drive via a narrow, short cul-de-sac leading to a Council sewage pumping station. The site is bounded to the west by No. 3 Elm Drive, to the rear by No. 1 Elm Drive (the appellant Ken Ryan's property) which is a Bed & Breakfast, and to the east by sewage pumping station property. The walled rear garden of No. 4 Elm Drive (the property of appellants Michael and Mary Stanley) is located on the opposite side of the cul-de-sac. Other development in the vicinity includes No. 2 Elm Drive which is occupied by Tusla and residential properties.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a detached two-storey house to the rear of an existing two-storey house. The proposed three bedroom house would be located in the rear garden of the existing house and would have a stated gross floor area of 167.47 square metres. The development would be on a site area of 0.0352 hectares.
- 2.2. Details submitted with the application included a planning report and a solar shading analysis.

3.0 Planning Authority Decision

3.1. Decision

On 15th November 2017, Limerick City & County Council decided to grant permission for the proposed development subject to 17 conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site is zoned residential in the Limerick City Development Plan and noted the reports from Irish Water and OPW. Acknowledging the submitted shadow cast analysis, it was submitted that the properties to the rear will have a

shadow cast during the winter months but this was not considered to be significantly worse than the current scenario. It was further submitted that there would be no overlooking of adjoining dwellings at first floor level and that the shape of the development reduces the overall scale and bulk on the site. The dwelling was considered acceptable in its context. A request for further information was recommended based upon the issues raised by Irish Water and OPW.

3.3. Prescribed Bodies

Irish Water requested further information relating to connection to existing sewers.

The Office of Public Works (OPW) noted the site falls within the area deemed to benefit from Channel C2/5 of the Shannon Embankments North, Coonagh and may be subject to an increased flood risk.

3.4 Further Information

A further information request was issued by the planning authority on 27th September 2017 and a response to this request was received by the planning authority on 20th October 2017. This included a layout plan showing separate connections to existing underground services and a Flood risk Assessment which required the proposed finished floor level of the house to be raised by 0.575m.

Further to this submission, the Planner considered the information to be satisfactory following consultation with the Water Services Department and recommended that permission be granted subject to conditions.

4.0 Planning History

I have no record of any planning application or appeal relating to this site.

5.0 Policy Context

5.1. Limerick City Development Plan 2010-2016

Zoning

The site is zoned '2A Residential' with the objective "To provide for residential development and associated uses."

Development Management

Infill Housing

In order to comply with general policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the Planning Authority will permit the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant Development Plan standards for residential development, however, in certain limited circumstances, the Planning Authority may relax the normal planning standards to allow development to take place.

In all cases where permitted, infill housing should:

- * Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- * Comply with the appropriate minimum habitable room sizes.
- * Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard.

Backland Development

The Plan states that the Council will encourage the provision of comprehensive backland development where the opportunity exists. It is acknowledged that the development of individual backland sites can conflict with the established pattern and character of development in an area.

6.0 The Appeals

6.1. Grounds of Appeal by Ken & Nuala Ryan

The appellant was granted leave to appeal by the Board. The appellants' property is at No. 1 Elm Drive. The grounds of appeal may be summarised as follows:

- The appellants have an established B&B. There is a concern the proposal will block natural light and will be an eyesore as their property faces directly onto the rear of the proposal. The proposal will inhibit amenity, devalue the property and have an adverse impact on business. The appellants are also

concerned about separation distances between opposing windows and about the solar shading analysis undertaken.

- Lighting from the proposed development will cause nuisance and annoyance at night time, effecting business and residential amenity.
- The planning authority has not considered the provision of a safe means of access to and from the site and there is concern that the proposal will aggravate traffic and parking difficulties.
- The applicants do not intend living in the proposed development and are intent on selling it or renting it.
- The proposal will set a poor precedent and will encourage others to convert existing back gardens.
- There are concerns about the size of the development in relation to the site, with the potential for the house to be a five bedroom unit, leading to increased traffic, noise and light pollution.

6.2. Grounds of Appeal by Mary and Michael Stanley

The appellants were granted leave to appeal by the Board. The appellants' property is at No. 4 Elm Drive. The grounds of appeal may be synopsised as follows:

- The proposed development would overlook the private garden at the rear of their house and would reduce the amenity and privacy of their home.
- Lighting will cause annoyance and disturbance at night time.
- The lane to provide access is not suitable for the increase in traffic and the extra parking that would result.
- The applicants do not intend living in the proposed development and are intent on selling it or renting it. Concerns are also raised about the upkeep of No. 3 Elm Drive.
- The proposal will set a poor precedent and will encourage others to convert existing back gardens.

- There are concerns about the size of the development in relation to the site, with the potential for the house to be a five bedroom unit, leading to increased traffic, noise and light pollution.

6.3. Applicant Response

The applicants' response to the appeals may be summarised as follows:

Loss of Daylight / Sunlight

- An independent Daylight & Sunlight Report concluded that the proposed development will not impact on the daylight and sunlight of neighbouring residences. A copy of the report is attached.
- The proposal complies with BRE guidelines in relation to skylight and sunlight availability to neighbours. All amenity spaces pass minimum requirements relating to sunlight and shadow.
- In relation to No. 1 Elm Drive, the proposed building shadow only impacts a small section of garden from 11.30 to 13.00 extending the shadow cast by the existing wall and the shadow then extends further into the east side of the garden from 13.00. The shadows are transient and have less impact than existing tall screening. No. 4 Elm Drive is located to the south and shadow does not arise.

Loss of Residential Amenity

- The proposed development does not give rise to overlooking at first floor and the shape reduces the overall scale and bulk of the development.
- The proposal will not directly overlook No. 1 but rather No. 1 will directly overlook the application site. There is only one first floor window on the northern elevation and it is an obscured bathroom window. Furthermore, the proposal provides private open space well in excess of development plan requirements.
- No. 4 is well removed from the application site, having a long rear garden and located across the road from the site. There is an 11m separation distance between the proposed house and the rear garden of No. 4. This is adequate and typical of the depth of rear gardens within a housing estate.

- No additional external lighting is proposed beyond that of a standard dwelling and the proposal will not diminish the effects of existing lighting on the receiving environment.

Traffic Hazard

- The planning authority had no concerns in relation to access.
- The proposal is accessed via a 3.5m roadway off Elm Drive, which provides access to two private garages and a Council pumping station. The applicants are legally entitled to use this road.
- The access is intended to serve one house, to accommodate two cars, and the proposal provides two on-site parking spaces.
- The existing access road has adequate sight lines at its junction with Elm Drive and provides a safe means of access.

Design and Future Use of the Dwelling

- The appellants' assumptions and contentions with regard to future use are of no relevance to the proposal and appeal.
- The proposal will comply with development plan standards and it will enhance the residential amenities and quality of the area.

6.4. Planning Authority Response

I have no record of any submission from the planning authority in response to the third party appeals.

6.5. Further Responses

The appellants were afforded the opportunity to respond to the applicants' response to their appeals. The appellants' concerns were reiterated in their submission.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the principal planning issues for consideration are the impact of the proposed development on residential amenity and the traffic impact. The issue of the future use of the structure will also be addressed.

7.2 Impact on Residential Amenity

7.2.1 The third parties have raised a number of concerns relating to the impact of the proposed development on established residential amenity. These include overlooking, overshadowing, traffic noise and lighting impacts. It is submitted that the proposed development would result in devaluation of property, inhibit amenity and adversely impact on an established B&B business.

7.2.2 In addressing these issues, I first note that this development is located within an established residential area. The Board will note the general form, pattern and layout of residential development at this location. It is evident that there is a degree of overlooking from neighbouring properties into adjoining neighbour's back gardens from first floor level. An example of this is the form and layout of No. 1 Elm Drive and the manner in which first floor windows of this structure overlooks the appeal site. Similarly, it is apparent that first floor windows of No. 4 would overlook the rear garden space of No. 6 and visa versa. In acknowledging this existing arrangement that is common to suburban housing, the issue of overlooking of adjoining private amenity space by neighbouring houses from upper floor levels can reasonably be considered an accepted impact of suburban housing development in the context of this proposed development.

7.2.3 Regarding the issue of overlooking and the adequacy of separation distances between opposing windows, I first note the layout and orientation of the proposed development relative to No. 4 Elm Drive. The proposed development would not result in any direct overlooking of habitable windows in No. 4 and so no issue of loss of privacy arises in that context. With regard to the impact on No. 1 Elm Drive, while accepting the proximity of the proposed dwelling to the established B&B (almost 8.8m at its closest point), I note the design of the proposed house. The proposal provides for one first floor window on the rear elevation which would be some 11m

from the rear elevation of No. 1. This would be a bathroom window. As would be expected, and as stated by the applicant in response to the appeal, obscure glazing would be used. Having regard to this and to the established 2.1m high rear boundary wall ensuring no loss of privacy from the ground floor level of the proposal, I do not accept that there would be any adverse impact on No. 1 arising from overlooking from the proposed development. The Board will also note that there could not reasonably be determined to be any notable additional impact arising from lighting on No. 1 due to the proposed fenestration arrangement and boundary treatment.

7.2.4 Regarding the issue of overshadowing, I first note the layout and orientation of the proposed development relative to No. 4 Elm Drive. No. 4 lies to the south of the appeal site. The proposed development would, thus, have no impact on No. 4 in terms of overshadowing. With regard to the impact on No. 1 Elm Drive, I note firstly that the proposed house would lie to the south of the appellants' property, with a single-storey section of the proposed house being almost 8.8m from the rear elevation of No. 1 and the main two-storey component being between 11m and 14m from the opposing rear elevation of No. 1. I further note the existing 2.1m rear boundary wall separating the two properties and the established high boundary planting in place. It is apparent from the proposed layout that it is intended to retain the existing screening. Over and above these observations, I note the shading analysis submitted with the planning application and the shadow, sunlight and daylight analysis submitted by the applicant in response to the third party appeals. I acknowledge that these analyses were undertaken excluding the tree planting along the northern boundary between No. 1 and the appeal site. It is apparent that the proposed development would not have an adverse impact on sunlight and daylight entering the established windows of the neighbouring B&B and that there would be minimal additional shadow cast over a very small section of garden. It, therefore, cannot reasonably be determined that the proposed development, in this suburban residential estate context, could be considered to cause significant adverse impact on residential amenity by way of overshadowing.

7.2.5 I note that other issues have been raised by the third parties throughout the application process that included flood risk concerns, traffic noise and lighting impacting on amenity. The flood risk assessment provided by the applicant indicates no significant concerns arise when marginal revised floor level changes are made. In

terms of traffic noise, the Board will note that this is a residential estate where there is frequent movement of vehicles. The proposal would not be likely to greatly exacerbate traffic noise within this estate such that it would impact on residential amenity. Finally on lighting impacts, the Board will note that the proposed development would be sited within a residential estate that is lit by public lighting. The fenestration arrangement of the proposed house will not result in any significant impact on No. 1 Elm Drive and there will be no notable impact on No. 4.

7.3 Traffic Impact

7.3.1 The proposed development would access a minor cul-de-sac road serving a Council sewage pumping station and two residential garages. This road is adequate in width, structure and alignment to accommodate the additional traffic that would be generated by one detached house. The junction of this minor road with Elm Drive is adequate in terms of design and provision of sightlines to accommodate safe entrance and exit. In addition to this, the proposed development would provide for on-site parking for two cars and this is considered appropriate and in compliance with development plan requirements. Overall, it is considered that the proposed development would not pose any traffic hazard.

7.4 Future Use

7.4.1 The proposed development before the Board comprises a three bedroom detached house. This site is adequate to accommodate the proposal as designed in terms of meeting with development plan requirements, while making adequate provisions for the existing house. It does not conflict with density, private open space, parking requirements, etc. Regarding the applicants' future intention of occupancy of the proposed house, this is not a matter at issue in determining the acceptability of this structure on this site when due regard is had to compliance with development management standards and plan provisions.

8.0 Recommendation

- 8.1. I recommend that permission is granted in accordance with the following reasons, considerations and conditions.

9.0 Reasons and Considerations

Having regard to the zoning provisions for the site as set out in the current Limerick City Development Plan and to the design, character and layout of the development proposed, it is considered that the proposed dwelling would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact and traffic safety, and would otherwise be in accordance with the provisions of the current Limerick City Development Plan. The proposed development 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 drawings and details submitted to the planning authority on the 20th October, 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. Development described in Classes 1 or 3 of Part 1 of Schedule 2 to the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, shall not be carried out within the curtilage of the of the proposed dwelling without a prior grant of planning permission.

Reason: In the interest of residential amenity.

3. Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

4. The proposed first floor window serving the bathroom shall be glazed in obscure glazing.

Reason: In the interest of residential amenity.

5. 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.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in

accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Kevin Moore
Senior Planning Inspector

10th May 2018