



An  
Bord  
Pleanála

## Inspector's Report ABP-301471-18

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<b>Development</b>	Two storey dwelling house, boundary walls and entrance, a semi-detached garden shed and retention permission for sub-dividing boundary wall
<b>Location</b>	Marian Ville, Newcastle, Castletroy, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	171136
<b>Applicant(s)</b>	Annette Coffey
<b>Type of Application</b>	Permission and retention permission
<b>Planning Authority Decision</b>	Grant subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Jim Quigley
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	5 <sup>th</sup> July 2018
<b>Inspector</b>	Ciara Kellett

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in Castletroy, Co. Limerick. It is c.750m north of the Castletroy Golf Club and just south of the Dublin Road (R445). It is c.1.8km north of the M7 motorway and c.1km south of the Lower River Shannon SAC (Site Code 002165).
- 1.2. The site is accessed from a laneway serving a number of dwellings. It is currently part of the rear garden of a semi-detached dwelling which faces onto Dublin Road and is on the east side of the laneway. The site is 0.053Ha in area. The appellant lives in the dwelling to the south. The boundary between the site and the appellant's dwelling comprises of mature trees and hedgerows. A wall for which retention permission is sought separates the existing dwelling from the site. Hedgerow and shrubbery forms the boundary with the lane. A temporary fence is erected where the entrance is proposed.
- 1.3. There are a number of detached dwellings on relatively large plots in the vicinity of the site of different styles and sizes.
- 1.4. Appendix A includes maps and photos.

## **2.0 Proposed Development**

- 2.1. It is proposed to build a dwelling in the sub-divided rear garden of the existing house with access provided from the laneway. The house will face the lane at a right angle to the existing dwelling. Retention permission is sought for a 1.8m high boundary wall between the existing dwelling and the subject site.
- 2.2. The proposed dwelling is two storeys with a gable roof. The gable wall forms the front façade of the dwelling. The original design included an attached shed and TV room to the rear. These rooms were removed following the Further Information request. The dwelling has one ensuite bedroom at ground floor and three bedrooms at first floor level.
- 2.3. A new boundary with the lane will be formed comprising a recessed sliding gate and a 1.1m plastered boundary wall. A new 1.2m boundary wall is proposed between

the dwelling and the appellant's dwelling to the south and a new 1.8m high stone faced wall is proposed on the boundary to the east. Two off-street car parking spaces are proposed. The rear garden area is 135sq.m, following the removal of the shed. Materials proposed include a natural slate finish on the roof and walls have a nap plaster finish with feature grey brick finish.

### 3.0 **Planning Authority Decision**

#### 3.1. **Decision**

The Planning Authority decided to grant permission subject to 12 conditions.

#### 3.2. **Planning Authority Reports**

##### 3.2.1. **Planning Reports**

The Planner's Report is the basis for the Planning Authority's decision. In summary it includes:

- Outline permission was granted for the erection of a two storey dwelling on the sub-divided site.
- The site is zoned for residential land use under the Castletroy Local Area Plan.
- Considers Further Information is required with respect to removing first floor windows on the east and southern side to remove potential for overlooking; private open space clarification; plans for all boundary treatments required; surface water issues to be addressed; and, respond to third party submission.
- Following the response which the Planner considered acceptable, it was concluded that the development would not have an adverse impact on the amenities of the adjacent property and recommended a grant of permission.

The decision was in accordance with the Planner's recommendations.

##### 3.2.2. **Other Technical Reports**

- **Roads Section:** Following response to Further Information request, no objections subject to conditions.

### 3.3. Prescribed Bodies

- **Irish Water:** No objection subject to conditions.

### 3.4. Third Party Observations

The appellant submitted an observation to the Planning Authority which is similar to the appeal and is detailed in Section 6 below.

## 4.0 Planning History

- **Reg. Ref. P17/67:** Outline permission was granted in March 2017 to erect a two storey house on the rear part of the sub-divided site, and permission to sub-divide the site.

## 5.0 Policy Context

### 5.1. Limerick County Development Plan 2010 – 2016 (extended)

Chapter 10 of the Plan refers to Development Management Standards. Section 10.5.5 refers to *Infill Residential Development in Urban Areas, Towns & Villages*. It states (inter alia):

*These guidelines relate to the provision of residential developments within existing residential or mixed use developments including along streets in towns and villages. These are particularly encouraged by the Planning Authority particularly on small gap infill, unused or derelict land and backland areas, up to larger residential sites.*

*The following guidelines should be applied to infill sites in street locations:*

- *The site density, coverage and open space requirements will be considered on a site-specific basis to permit a development to integrate with the existing adjoining development.*
- *The development management standards set out for new residential developments may be relaxed in the case of infill developments.*

- *Design, height, scale, materials used and finishes should respect existing adjacent properties.*
- *Boundary treatment should ensure an effective screen between proposed and existing development.*
- *Private open space should provide space for bin and fuel storage areas.*

## 5.2. **Castletroy Local Area Plan 2009 – 2015 (extended)**

- 5.2.1. A Draft Castletroy Local Area Plan 2019 – 2025 is currently on display for public consultation.
- 5.2.2. The existing Plan for Castletroy has been extended until 2019. Chapter 5 of the Plan refers to Development Management Policies. The Land Use zoning map is an Appendix to the Plan.
- 5.2.3. Map 1 identifies the area as being zoned 'Existing Residential'. No change is proposed to the zoning in the Draft Plan that is currently on display.

## 5.3. **Natural Heritage Designations**

- 5.4. The Lower River Shannon SAC (Site Code 002165) lies c.1km to the north of the site.

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

The appeal has been submitted by the owner of the neighbouring dwelling to the south. In summary it states:

- Considers his own property is reflective of the Dublin Road characteristic properties.
- Proposal would impinge on his property. It is in such proximity to the boundary that it intrudes on privacy, light, characteristic value and safety. The closeness

of the property is untypical on any development in the hinterland and unprecedented in the area.

- Proposal would significantly devalue his property by the effect on privacy, negative enjoyment of property, by the twinned access points and the characteristics of the property's façade, finishes and design.
- His property would be cast as backland development.
- Site coverage is excessive. Queries why half the public road was included in the red line.
- Contiguous elevation submitted is flawed and proposal would diminish the roadside attractiveness of appellant's house.
- Location of entrance is unacceptable and would generate a traffic hazard for appellant exiting his dwelling.
- Site coverage will necessitate roadside parking by the occupants or visitors.
- Depiction in outline planning permission failed to reflect the nature of the proposed development when compared to the plans shown in the subject application – differences are material. Differences cited as including: footprint does not coincide, overlooks, disposal of surface water not envisaged in outline planning application, and site coverage well beyond that envisaged. Considers he was deprived of opportunity to make submission on outline permission due to differences.
- Raises concern relating to the application for permission consequent to outline permission and retention permission in the same bundle.
- Photos are misleading as trees are in full foliage and considers trees cannot be retained if the wall is built. Many trees are in appellants property and therefore not within the control of the applicant.

## 6.2. Applicant Response

The applicant's architect responded enclosing the original response to the Further Information request, a personal letter from the applicant and a legal letter to the appellant. In summary they state:

- Further Information rebuts a number of the appellant's assertions of the original submission at Planning Authority stage.
- It notes with respect to the outline permission that detail is not required at that stage and the footprint is only diagrammatic. Refers to distances between proposal and appellant's dwelling. Notes red line is as shown on Land Registry Map.
- Personal letter is from applicant who notes that she wishes to downsize, and wishes to remain in the area and addresses appellant's allegations in the legal letter.

### 6.3. **Planning Authority Response**

No response has been received.

## 7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal and I am satisfied that no other substantive issues arise. The issue of appropriate assessment also needs to be addressed. The issues can be dealt with under the following headings:

- Procedural matters – outline planning permission
- Residential Amenities
- Vehicular access
- Design and Site Coverage
- Appropriate Assessment

### 7.1. **Procedural matters**

- 7.1.1. Outline planning permission was granted for the development of a two storey dwelling on the site. I am satisfied that the description of the outline permission corresponds with the subject application. The outline permission granted was for the erection of a two storey dwelling and the sub-division of the site. No other details are referred to.

7.1.2. The Planner's Report states that in the report for the outline permission, it is noted that careful design and details of boundary treatment will be required in any subsequent application.

7.1.3. Section 36(4) of the Planning and Development Act, 2000, as amended (the P&D Act) states that:

*Where an application for permission is made to a planning authority consequent on the grant of outline permission, the planning authority shall not refuse to grant permission on the basis of any matter which had been decided in the grant of outline permission, provided that the authority is satisfied that the proposed development is within the terms of the outline permission.*

7.1.4. The appellant was entitled to submit an objection (and appeal if necessary) to the outline application. It is not stated if an objection was submitted, and the appellant does not refer to one. Having regard to Section 36(4) of the P&D Act, the principle of a two storey house is permitted on the site.

7.1.5. I am satisfied that the development as described is in line with what was permitted under the outline permission.

## **7.2. Residential Amenities**

7.2.1. The appellant has referred to a number of concerns with respect to the impact on his residential amenities. I will address each in turn under the following headings:

### *7.2.2. Proximity to boundary*

There are no dimensions on the drawings but the appellant's house is set well back within his site and to the rear of the subject proposal. The applicant in response to the Further Information request states that the first floor bedroom window is 11m from the boundary, 18.5m from the south-east corner and over 28m from the appellant's dwelling.

The Sustainable Development for Urban Areas Guidelines recommends a 22m distance between opposing first floor windows. Having regard to the Guidelines and the existing landscaping on the site (albeit in full foliage during my site visit), I am satisfied that the proposal and distances between dwellings are acceptable and would not cause a serious adverse impact on the appellant's amenities.

### 7.2.3. *Overlooking and Privacy*

At Further Information stage the applicant removed all windows at first floor level on the south elevations. No first floor windows were proposed on the north elevation. Bedroom 4 on the first floor includes a window facing east. Having regard to the distances involved, as discussed above, I am satisfied that there will not be overlooking so as to cause adverse impacts. The landing window is full length and appears to open out onto a what could be construed as a mini balcony. I consider that this should be removed by way of condition.

### 7.2.4. *Enjoyment of property*

The appellant considers that the proposal would significantly diminish the enjoyment of his property due to the overall ambience. He considers that it would impose adjoining living more appropriate of high density housing estates.

Having visited the site, I am satisfied that the proposal will not result in a high density of development. Another dwelling has been constructed on the opposite corner of the lane in what appears to be the rear garden of a dwelling also facing onto Dublin Road. I consider that an appropriate condition requiring a landscaping scheme to be submitted to the Planning Authority adding to the boundary treatment of the southern and eastern boundaries will mitigate concerns, should the Board consider granting permission.

### 7.2.5. *Conclusion*

To conclude, I am satisfied that there will not be a significant adverse impact on the residential amenities of the appellant. The appellant's dwelling is at a sufficient distance from the proposal and having regard to the existing boundary treatment, I am satisfied that with a condition to supplement this landscaping the proposal would be acceptable.

## 7.3. **Vehicular Access**

- 7.3.1. The applicant proposes to locate the access to the site on the south-west boundary adjacent to the appellant's entrance. The appellant is concerned that it will create a traffic hazard for him exiting his dwelling.

- 7.3.2. The drawing submitted at Further Information stage indicates a 1.1m high wall and a recessed sliding timber gate on the western boundary facing onto the laneway.
- 7.3.3. The laneway is narrow and is unlikely to be used by much traffic other than local traffic. I am satisfied that there is sufficient sightlines and low boundary walls proposed to mitigate any potential issues.
- 7.3.4. Two off-street parking spaces are proposed which is what is required by the Development Plan. I do not consider that potential parking on the laneway is a reason to refuse permission for the subject application.

#### **7.4. Design and Site Coverage**

- 7.4.1. The appellant considers the design is not reflective of the characteristics of properties in the area. In particular the façade, finish and design are considered to be of a type of development of lesser value than is typical of the area.
- 7.4.2. While I agree that the design is not typical of the area, in particular, the fact that the gable wall is the full front façade, I do not consider that this is a reason to refuse the application. I can confirm to the Board that I walked along the lane and no two houses are similar. All the dwellings are detached but that is the only common feature. Every single house is different from flat roofed dwellings, to houses with two projecting gable walls, to dormer bungalows. There is no clearly defined pattern of development in the area, and therefore this different design will not introduce a 'breach of prevailing development styles' as stated by the appellant.
- 7.4.3. In terms of site coverage, I am satisfied that the footprint and remaining rear garden area comply with development standards. I accept that the overall area of the site is less than the majority of sites or plots in the area, but I note that it is similar in scale to the dwelling built in the rear garden on the opposite side of the lane.

#### **7.5. Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of development proposed for permission and retention permission and to the nature of the receiving environment, namely an urban environment, no appropriate assessment issues arise and it is not considered

that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

- 8.1. I recommend that permission and retention permission should be granted for the proposed development subject to conditions.

## 9.0 Reasons and Considerations

Having regard to the nature and location of the development for which permission and retention permission is sought, and the pattern of development in the vicinity, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic and pedestrian safety and convenience. The development for which permission and retention permission is sought would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be retained, carried out and completed in accordance with the plans and particulars lodged with the application, amended by the further plans and particulars submitted to the planning authority on the 14<sup>th</sup> day of March 2018 and on the 22<sup>nd</sup> day of March, 2018, 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. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or

amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

3. The proposed development shall be amended as follows:

- (a) The balcony to the rear of the dwelling at first floor shall be removed.

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:** In the interests of visual and residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5. Notwithstanding the provisions of Article 10(4) of the Planning and Development Regulations, 2001, or any statutory provision modifying or replacing them, no room in the proposed house shall be used for the purpose of providing overnight paying guest accommodation without a prior grant of planning permission.

**Reason:** In order to prevent overdevelopment of the site in the interest of residential amenity.

6. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

7. 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 hours of working, noise

management measures, dust minimisation measures, and off-site disposal of construction/demolition waste.

**Reason:** In the interests of public safety and residential amenity.

8. 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.

9. 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.

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Ciara Kellett  
Senior Planning Inspector

9<sup>th</sup> July 2018