



An
Bord
Pleanála

Inspector's Report ABP-302074-18

Development	Demolition of house and construction of a replacement house
Location	'Moyarta', North Circular Road, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	18/398
Applicant(s)	Bridget & Dennis Dempsey
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	First & Third Party
Appellant(s)	Bridget & Dennis Dempsey Aoife O'Connell & John McManus
Observer(s)	Ronan & Lorraine Daly
Date of Site Inspection	19 th September, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. 'Moyarta' is a large detached, gable-fronted, two-storey house with frontage onto the north side of North Circular Road in Limerick City. It has deep front and back gardens and there is a substantial number of trees throughout the site. The back garden has frontage onto the Ennis Road. The site is bounded to the east by a detached house, the appellants' property 'Newburn', and to the west by a semi-detached dwelling, the observers' property 'Creevagh'.

2.0 Proposed Development

- 2.1. The proposed development would comprise the demolition of an existing detached dwelling ('Moyarta') that was constructed in the 1950s and its replacement with a two-storey, four bedroom house. The proposed brick-finished house would have a stated floor area of 351m² on a site area of 0.34 hectares. The development would include a detached single-storey garage sited to the rear of the house and with a stated floor area of 34m².

3.0 Planning Authority Decision

3.1. Decision

On 3rd May, 2018, Limerick City & County Council decided to grant permission for the proposed development subject to 18 conditions.

Condition 3 was as follows:

- "3. *Within one month of the grant of planning permission the applicant shall submit a revised site layout plan omitting the proposed relocation of vehicular entrance from the North Circular Road and new rear vehicular entrance from the Ennis Road. Vehicular access to the site shall be retained as is.*

Reason: In the interest of proper planning and orderly development and in the interest of traffic safety."

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner considered the new house would not overshadow or overlook adjoining development. The proposed second access on the Ennis Road was regarded as unacceptable due to traffic safety. It was further considered that the proposed relocation of the existing entrance onto North Circular Road had not been justified and was not acceptable because it would necessitate the removal of mature trees and additional works on the footpath. A grant of permission was recommended.

3.2.2. Other Technical Reports

The Environment Engineer requested further information requiring a refurbishment demolition asbestos survey and specified a condition relating to waste management.

3.3. Prescribed Bodies

Irish Water had no objection to the proposed development.

3.4. Third Party Observations

An objection to the proposal was received from Aoife O'Connell and John McManus. The grounds of appeal reflect the principal planning concerns raised.

An objection was also received from Ronan and Lorraine Daly. The observation to the Board reflects a number of the principal planning concerns raised.

4.0 Planning History

4.1 I have no record of any previous 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 'Residential'.

6.0 The Appeals

6.1. Grounds of the First Party Appeal

The appeal relates to the attachment of Condition 3 with the planning authority's decision to grant permission. The grounds of the appeal may be summarised as follows:

- It was for the reason of traffic safety that the relocation of the existing vehicular entrance is proposed. The existing entrance is tight against the east boundary and is dangerous when driving out due to inadequate sightlines.
- Moving the entrance as proposed will allow the achievement of the required sight distance.
- It is intended to retain all trees inside the boundary line.

6.2. Grounds of the Third Party Appeal

The appellants reside at 'Newburn', a detached house to the east of the appeal site. The grounds of appeal may be summarised as follows:

- The proposed development will result in direct overlooking of the appellants' property, causing loss of privacy. This results from windows at first floor level on the east facing wall. It is requested that any windows at first floor level on the east elevation be glazed with obscure glass.
- The proposed development will result in overshadowing of the appellants' property and loss of light. This results from moving the new dwelling forward on the site and the dwelling being a metre higher than the existing house, thus affecting light reaching the appellants' family room and patio. It is requested that the current building line be maintained.
- The appellants are supportive of the attachment of Condition 3 with the decision of the planning authority to protect trees and hedgerow.

Two anomalies are referenced also relating to the photograph in the Planner's report showing the appellants' house and not the house on the appeal site and

the wording of Condition 17 in the planning authority's decision referring to adjoining property to the south where there is no such property.

6.3. Applicant Response to Third Party Appeal

The applicants' response to the third party appeal may be synthesised as follows:

- A condition survey of the existing house, built in 1957, revealed that it contained no insulation throughout, no damp course, some structural issues, and the heating and electrical services were obsolete. The house would need total replacement of all finishes throughout. The preferred option was to demolish the existing house and replace it.
- In locating the proposed house, it was noted that the existing house was built to the east side of the site and that the new house would sit better if it was more centrally located. The proposal is moved 4.75m to the west. The existing building line is out of sync with all existing detached houses along this stretch of road. It was felt that if the new house was matching the style of house in the area then the existing building line of adjoining houses should continue by constructing the house 4m to the south of the existing house.
- On the issue of overlooking and privacy, the house is moved 4.75m to the west, giving greater space and privacy between it and 'Newburn'. This will result in increased sunlight, decreased noise levels and reduced odours. The existing house has three first floor windows on the east elevation and the proposal has four, two of which will have frosted glass and one of which serves a stairwell. The common boundary comprises a dense evergreen tree line. The existing entrance hall is on the east gable and the new entrance would be to the south.
- On the issue of overshadowing and loss of light, it is again noted that the building line of the existing house is set back from all detached houses to the east.
- On the issue of the entrance, it is for traffic safety reasons that the entrance is proposed to be relocated. The existing entrance is dangerous and the relocated entrance will provide the required sightlines. It is the intention to

retain all existing trees inside the boundary line. It is noted that all other detached houses, with the exception of 'Newburn', have service entrances off Ennis Road.

The response includes photographs of housing stock along the North Circular Road and a Consulting Engineer's Report on the location of the vehicular entrance.

6.4. Planning Authority Response

I have no record of any response to the appeals from the planning authority.

6.5. Observations

The observers reside at 'Creevagh', a semi-detached house to the west of the appeal site. Concerns are raised relating to the proposed relocation of the vehicular entrance onto North Circular Road and the consequential removal of mature trees on the property. The observers are in agreement with the third party appellants' issue relating to moving the new dwelling forward of the building line of the existing house.

6.6. Further Responses

The third party appellants and the observers were afforded the opportunity to respond to the applicant's response to the third party appeal.

The third party appellants dispute the applicants' determination of the building line of the existing house, raise concerns about the nature and extent of proposed windows on the east elevation of the proposed house and the adequacy of existing screening, and request that the decision on the entrance onto Ennis Road be upheld.

The observers expressed concern about the proposed entrance onto the Ennis Road and queried the applicants' submission relating to the proposed relocation of the entrance onto North Circular Road.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the proposed development are the principle of demolition of the existing house, the impact of the new development on residential amenity by way of overlooking and overshadowing and traffic safety.

7.2. The Principle of Demolition

7.2.1 It is my submission to the Board that this is a significant planning issue of relevance to the appeal, albeit one that was not raised by any party to the application. The first party appellants have submitted that a condition survey of the existing house was carried out and that it revealed that the house contained no insulation throughout, no damp course, some structural issues, and the heating and electrical services were obsolete. It was also stated that the house would need total replacement of all finishes throughout. It is a preferred option of the applicants to demolish the existing house and replace it.

7.2.2 The Board will note that there are no details of any condition survey, assessment of structural defects of the house, schedule of works necessary to improve the building's condition, etc. with the planning application or in the appeal submissions. It is, therefore, difficult to reasonably conclude that the existing house requires replacement due to any poor structural condition. It is evident that the house, constructed in 1957, is habitable and is certainly not in a poor and/or dangerous structural condition. In light of this, it may reasonably be determined that any structural defects that exist could be comprehensively addressed and the further needs of the applicants could be met by internal improvements and extensions if so required. In the context of what would be considered 'sustainable' development, one should ultimately seek to protect functional housing stock and seek to avoid unnecessary removal of structures that heretofore have been compatible with an established residential area.

7.2.3 While the Board may reasonably come to a conclusion that the demolition of 'Moyarta' does not constitute sustainable development, I note once again that there

have been no concerns raised by any parties to the application relating to the proposed demolition. The focus has been wholly on the proposed replacement dwelling. Over and above this, I note that there are no provisions in the current Limerick City Development Plan that would prohibit the proposed replacement of 'Moyarta' in principle. It is evident that the replacement house would meet all development plan standards and provisions as they relate to amenity, services, parking, etc. In this context and in isolation of any policy prohibition of such development in principle, I consider that the Board may reasonably move on to examine issues relating to the impact of the replacement house.

7.3 Impact on Residential Amenity

7.3.1 The third party appellants raise concerns relating to overlooking and overshadowing and address particular concerns arising from the new building line of the proposed replacement house.

7.3.2 It is apparent that the plans and drawings submitted with the planning application indicate that the building line of 'Moyarta' is behind those detached houses to the east. The third party disputes the accuracy of the building line shown. I note, however, that the building line of the proposed replacement house, as set out in the proposed layout plan, seeks to match the building line of the detached houses to the east. In the event that the replacement house was constructed in accordance with the plans and details in this application, it is clear that the building line of the new house would be required to match that of the house to the east. This can be reinforced by way of condition if so desired by the Board to ensure compliance with the drawings and details presented in the application. In my opinion, that will address any further concerns about uncertainty relating to the proposed building line.

7.3.3 On the issue of overlooking, I note the location of 'Moyarta' and the existence of windows on its east elevation, along with a main entrance into the house on this gable. The east gable of the proposed house would be some 3.5 metres further away from the common boundary with the appellants' property and it would accommodate four windows, with the principal entrance to the new house being from the south. Two of the windows at first floor level would serve a bathroom and an ensuite and would be expected to be glazed in frosted glazing. A third window would

serve the stairwell and, thus, would not serve any habitable room. The fourth window would serve 'Bedroom 4', a room which would have an additional window on its west side. To address any concerns with this, the window on the east elevation could be omitted and an alternative window to this room, such as a high level window, could be provided on the rear elevation over the plant room / utility. This could reasonably be agreed with the planning authority. I note that there is an existing band of evergreen trees along the boundary between 'Moyarta' and 'Newburn' on the side of the latter property that would function as a screen. Overall, I am satisfied to conclude that the issue of overlooking would not be in any way significant with the modifications suggested above.

7.3.4 With regard to the issue of overshadowing, I note that the proposed building line of the replacement house seeks to match that of the appellants' house to the east. This is considered reasonable. I note that the replacement house would be moved further away from the flank boundary of the two properties. I note also the band of large evergreen trees along the flank boundary. It is my submission to the Board that there would not be any notable intensification of overshadowing of the third party appellants' property arising from the development of the replacement house. Indeed, the increased separation distance is likely to improve any overshadowing that could potentially arise. I must also intimate to the Board that the band of tall evergreen trees along the west flank of the appellants' property has a significant impact on overshadowing of that property.

7.3.5 Further to the above, I note that the development of the proposed replacement house would have no significant adverse impact on the amenities of the observers' property.

7.3.6 In conclusion, I am satisfied that the proposed replacement house would not have a significant adverse impact on the amenities of residents at this location.

7.4 Traffic Impact

7.4.1 I note that the applicants, third party appellants and the observers have each raised issues relating to the proposed access arrangements to serve the replacement house.

7.4.2 It is evident from the first party appeal that the applicants did not address the issue of the access onto Ennis Road to the rear in their appeal and yet sought to revisit this issue in the response to the third party appeal. Ennis Road is a principal entry point to Limerick City and is a heavily trafficked route. The main access to the proposed replacement house would be onto North Circular Road to the south, the road that serves 'Moyarta' at present. There is no necessity for any additional vehicular or other access to this property via Ennis Road. The additional traffic turning movements onto Ennis Road generated by the proposed development could likely, and unnecessarily, impede vehicular movement on that road. Accordingly, the proposed access onto Ennis Road should be omitted.

7.4.3 Regarding the proposed relocation of the vehicular access onto North Circular Road, I note that the existing entrance serving 'Moyarta' has served that dwelling for many years as a vehicular access. I also acknowledge that there is no evidence or record of any deficiencies, accidents or other such concerns arising from the ongoing use of this vehicular access either by the planning authority or the applicants. Providing a new splayed entrance at the location proposed will result in the removal of trees along the site's frontage, notwithstanding claims to the contrary. While I note that there are no restrictions on the applicants clearing such vegetation from the site's frontage, I can see no merit in seeking to replace the existing entrance, which appears not to pose any particular traffic hazard. Furthermore, in light of the layout of the proposed development, I would suggest that the retention of the entrance and the retention of the layout of the existing driveway along the east side of the property would facilitate the most desirable access and approach to the proposed garage in the manner it is sited to the rear of the new house, with the omission of any access onto Ennis Road.

7.5 Miscellaneous Issues

7.5.1 There are a number of other issues requiring consideration as follows:

- The proposed new house constitutes a replacement house. I acknowledge that, in the case of an application for replacement, the Limerick City & County Development Contribution Scheme 2017-2021 provides for development

contributions to be charged on any additional floor area in such instances and, thus, a contribution would be required in this instance.

- I acknowledge the third party's observation that the photograph in the Planner's report is one of the third party's house and not 'Moyarta'.
- I note the third party's observation relating to Condition 17 of the planning authority's decision. The Board will be addressing this application *de novo* and, thus, will be setting out new conditions in the event of a grant of permission being issued.
- Having regard to the nature and scale of the proposed development and the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

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 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 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 front building line of the replacement house shall match that of the existing detached dwelling to the east of the site.

Reason: In the interest of clarity

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 on the east elevation serving Bedroom 4 shall be omitted. Any additional window serving this room shall be provided on the rear elevation, details of which shall be agreed in writing with the planning authority prior to the commencement of development. The bathroom and ensuite windows on the east elevation shall be glazed in obscure glazing.

Reason: In the interest of residential amenity.

5. The proposed vehicular entrance onto Ennis Road and the proposal to relocate the existing vehicular entrance onto North Circular Road shall be

omitted and the existing vehicular entrance shall be retained as the sole vehicular entrance to serve the replacement dwelling.

Reason: In the interest of traffic safety.

6. 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.

7. 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

4th October, 2018