



An
Bord
Pleanála

Inspector's Report

ABP-304171-19

Development	A balcony and retention of balcony doors and revised position of basement window to the rear of the existing dwelling house.
Location	Dromlought, North Circular Road, Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/823
Applicant(s)	Kieran and Paula Lynch
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First v. Refusal
Appellant(s)	Kieran and Paula Lynch
Observer(s)	Patrick Connolly
Date of Site Inspection	21 st June 2019
Inspector	Elaine Power

1.0 Site Location and Description

- 1.1. The subject site is located on the North Circular Road, an established residential area, approx. 1.4km west of the city centre. The site is bound by semi-detached dwellings. The rear garden boundary treatments comprises an approx. 2m high fence, with mature vegetation on adjoining sites.
- 1.2. The house is semi-detached. Due to the level difference on site the front elevation of the house presents as two-storey and the rear elevation presents as two-storey over basement. The basement and ground floor level of the house have previously been extended to the rear.
- 1.3. The rear garden has been levelled and landscaped and is approx. 2m below the ground floor level. There are currently steps from the side of the house leading to the garden level with a partially covered walkway and decked area to the side of the house.

2.0 Proposed Development

- 2.1. It is proposed to provide a ground floor level balcony to the rear, above the basement level. The proposed balcony is approx. 8.9m in width by 2.6m in depth with 1.1m high balustrade. The materials include a steel frame, with a timber deck floor and 1.1m high balustrade. A 1.8m high obscure glazed panel is proposed along the south west corner of the balcony, with the adjoining neighbour, 'Usnagh'.
- 2.2. The balcony is to be located approx. 0.9m from the south west (side) boundary, approx. 2m from the north east (side) boundary and approx. 12m from the south east (rear) boundary.
- 2.3. The works also include the retention of existing 2.2m wide balcony doors and the revised position of basement window to the rear of the existing dwelling house.
- 2.4. ***Further Information lodged 11th December 2018***

A photographic survey of the site and examples of similar developments in the immediate area were submitted. The response to further information did not result in any alterations to the proposed development.

2.5. **Clarification of Further Information lodged 19th February 2019**

Details regarding the style of double doors and the location of the basement window on the rear elevation were submitted.

Revised public notices were advertised on the 21st December 2019 which noted the retention of the existing ground floor level double doors and the location of the basement level window.

3.0 **Planning Authority Decision**

3.1. **Decision**

Permission was refused for the following reason:

1. *Having regard to the proposed development, a balcony 1.8m above ground level, in proximity to neighbouring property to the south-west, it is considered that the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, by reason of overlooking and obtrusive appearance. The proposed development would be visually obtrusive in the local environment and would be contrary to the proper planning and sustainable development of the area.*

3.2. **Planning Authority Reports**

3.2.1. **Planning Reports**

The initial Area Planners Report considered that further information be sought to fully assess the application. The following items were requested: -

- A photographic survey of the rear elevation of the house.
- Planning reference numbers of adjoining similar developments.

It was considered that clarification of further information be sought regarding amendments to the rear elevation which were considered to be non-compliant with permission previously granted (PL30.212882, Reg. Ref. 05/70) for a rear extension.

The final Planners report considered that concerns had not been addressed and recommended a refusal of permission for the reason as stated by the Planning Authority.

3.2.2. **Other Technical Reports**

None

3.3. **Prescribed Bodies**

None

3.4. **Third Party Observations**

A submission was received from Patrick Connolly, whose property 'Usnagh' adjoins the subject site to the south west. The concerns raised are similar to those raised in the observation on the appeal.

4.0 **Planning History**

Subject Site

PL30.212882, Reg. Ref. 05/70: This is the permission granted in 2005 for the rear extension to the house.

PL30.235533, Reg. Ref. 09/770262: Permission was refused in 2010 for a decked area to the rear of the house. The reason for refusal related to undue overlooking and the obtrusive appearance.

Surrounding Sites

Reg. Ref. 13/7700089 Permission was granted in 2013 for an extension and alterations, including a rear balcony at 'Anne Ville' approx. 60m west of the subject site.

Reg. Ref. 11/770015 Permission was granted in 2011 for a rear extension, including a timber decked area at 'Rosario' approx. 120m west of the subject site.

5.0 Policy Context

5.1. Limerick City Development Plan 2010-2016 (as extended)

The site is zoned ZO.2(A) – Residential with the associated land use objective to provide for residential development and associated uses.

5.2. Natural Heritage Designations

The site is located approx. 15m north west of Lower River Shannon SAC (002165) and approx. 270m north of the River Shannon and River Fergus Estuaries SPA (site code 004077).

6.0 The Appeal

6.1. Grounds of Appeal

A first party appeal against the Planning Authority's decision to refuse permission has been submitted. The submission addresses the reason for refusal and is summarised below: -

- The houses along this section of North Circular Road are lower at the rear and have steep sloping gardens. To overcome this constraint the majority of neighbouring properties have either provided different levels in the rear gardens or lowered the level of the rear garden and provided a rear balcony / terrace. The rear garden of the subject site has been lowered to approx. 2m below ground floor level.
- The proposed balcony would be a similar height to the existing balcony of the neighbouring house to the south west.
- Rear gardens are already overlooked by existing balconies.
- A photographic survey of existing balconies and planning reference numbers for similar developments in the immediate vicinity of the subject site have been included.
- A 1.8m high obscure glazed screen is proposed along the south west boundary to prevent overlooking.

- There is no material difference between the style of the double doors and location of the basement window as approved under 05/70070.

6.2. **Planning Authority Response**

None

6.3. **Observations**

An observation was received from Patrick Connolly. The concerns raised are summarised below: -

- There is no precedent for balconies. The houses with existing balconies are detached and therefore have a different site context.
- The proposed balcony would be overbearing and visually oppressive for the adjoining neighbour.
- The development would devalue adjoining properties.
- There are no significant changes in this application from the proposal refused under PL30.235533, Reg. Ref. 09/770262

7.0 **Assessment**

7.1. The main issue in this appeal relates to the impact the proposed balcony would have on existing residential amenities in terms of overlooking and visual impact. Appropriate Assessment requirements are also considered. I am satisfied that no other substantial planning issues arise. The main issues can be dealt with under the following headings:

- Residential and visual amenity
- Appropriate Assessment.

7.2. ***Residential and Visual Amenity***

7.2.1. The Planning Authority's reason for refusal refers to the height of the proposed balcony and its proximity to the neighbouring property. On this basis it was considered that the proposed development would seriously injure the amenities and depreciate the value of property in the vicinity, by reason of overlooking and obtrusive appearance.

- 7.2.2. The observer has raised concerns that the proposed balcony would be overbearing and visually oppressive when viewed from his rear garden.
- 7.2.3. The rear gardens of both the subject site and the adjoining property 'Usnagh' are approx. 2m lower than the ground floor level of the houses and the rear elevations present as 3-storeys. Therefore, it is considered that the proposed balcony would read as a first-floor extension.
- 7.2.4. The applicant has provided planning reference numbers and examples of similar types of balconies in the immediate vicinity of the site. It is noted that there is an existing covered deck area at ground floor level along the north eastern (side) elevation of the house, which provides access to existing steps. The proposed balcony is a modern steel and glass construction with a timber deck. Having regard to the proposed materials and the limited size of the proposed balcony it is considered that it would not be visually obtrusive.
- 7.2.5. The balcony is located approx. 0.9m from the south west (side) boundary, 2m from the north east (side) boundary and 12m from the south east (rear) boundary. Having regard to an existing extension and boundary treatment at the adjoining site to the north east (side), the distance to the south east (rear) boundary and the proposed 1.8m high opaque screen along the south west corner of the balcony it is considered that the proposed balcony would not result in undue overlooking of adjoining properties.
- 7.2.6. It is acknowledged that permission was previously refused for a similar development (PL03.235533), however, in my opinion the proposed materials and the 1.8m high screen ensures the balcony would not result in undue overlooking or be visually obtrusive. It is also considered that having regard to the particular constraints of this site and the lack of connectivity to the rear garden the provision of a balcony / deck would improve the residential amenities of the existing house.
- 7.2.7. It is also proposed to retain existing 2.2m wide double doors at ground floor level and the revised position of a basement window, on the rear elevation of the house. Permission was granted under PL30.212882, Reg. Ref. 05/70 for a rear extension to the existing house, which included a window on the rear elevation at ground floor level. While it is acknowledged that there is a 2m level difference between the ground floor

level and the garden level it is my view the provision of double doors in lieu of a window opening would not significantly impact on the residential or visual amenities of the existing property or adjoining neighbours. It is also considered that the revised location of the basement level window would not impact on the residential or visual amenities of the area.

7.3. *Appropriate Assessment*

Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, 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.

8.0 Recommendation

It is recommended that permission be granted subject to conditions.

9.0 Reasons and Considerations

Having regard to the zoning objective of the site and the small scale of the proposed development it is considered that, subject to compliance with the conditions set out below, the proposed development would be acceptable and would not seriously injure the amenities of the area, in terms of overlooking and visual impact. 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 retained, 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. Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity

Elaine Power
Planning Inspector

3rd July 2019