



An
Bord
Pleanála

Inspector's Report ABP 304269-19

Development	Two storey extension to side of dwelling, widening of entrance piers and increased car parking space.
Location	68 The Fairways, Monaleen Road, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	18/1199
Applicants	Ann Grennan & Ian Reidy
Type of Application	Permission
Planning Authority Decision	Grant subject to conditions
Type of Appeal	3 rd Party v. Grant
Appellants	Tom & Karen Butler
Observer(s)	None
Date of Site Inspection	22/07/19
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

No. 68 is a two storey detached dwelling on a cul-de-sac within The Fairways housing estate accessed from Monaleen Road in the outer eastern suburbs of Limerick City.

2.0 Proposed Development

The application was lodged with the planning authority on the 10/12/18 with further plans and details received 25/03/19 following a request for further information dated 08/02/19.

The proposal entails the demolition of the existing single storey side extension, which currently comprises a garage and part of the kitchen area, and construction of a two storey extension with a hipped roof. The extension is to have a setback of 300mm from the boundary with No. 68A to the north with its rear wall to extend 2.150 metres beyond the rear wall of the dwelling.

The existing vehicular access is to be widened with the car parking area to the front of the dwelling to be increased.

3.0 Planning Authority Decision

3.1. Decision

Grant permission for the above described development subject to 10 conditions including:

Condition 3: Appropriate measures to be taken during construction phase to ensure no damage caused to adjoining property. No rain water goods to overhang any adjoining property. The extension shall not be constructed on any party boundary.

Condition 4: No chimney or flue for a solid fuel burning appliance to be constructed in the extension.

Condition 10: The two side bay windows facing the property along the north-eastern boundary and the side gable bathroom window (1st floor) shall have obscured glass only.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The 1st Planner's report (countersigned) dated 07/02/19 recommends a request for further information seeking removal of bay windows, 1st floor side window and side attic space roof light proposed on rear elevation, setback of extension from boundary with No.68A, submission of rear contiguous elevation and response to 3rd party objection. The 2nd report dated 04/04/19 following further information considers that the proposal would not have an adverse impact on the amenities of adjoining property in terms of overlooking and loss of privacy and is considered acceptable. A grant of permission subject to conditions recommended.

3.2.2. Other Technical Reports

Environmental Services in an email states that no chimney or flue for a solid fuel burning appliance to be constructed in the extension

3.3. **Prescribed Bodies**

Irish Water has no objection subject to conditions.

3.4. **Third Party Observations**

An objection to the proposal received by the planning authority is on file for the Board's information the issues raised are comparable to those in the 3rd party appeal summarised in section 6 below.

4.0 **Planning History**

I am not aware of any previous planning applications on the site.

5.0 Policy Context

5.1. Development Plan

The site is within an area zoned 'Existing Residential' in the current Castletroy LAP the objective for which is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

5.2. Natural Heritage Designations

None in the vicinity.

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Adam Kearney Associates on behalf of the 3rd Party appellants, which is accompanied by a submission by the appellants and a Shadow Analysis, can be summarised as follows:

- The further information request was largely ignored
- Their property is approx. 500mm lower than the appeal site.
- The extension will negatively impact on the appellants' dwelling and private open space by reason of overlooking, loss of privacy and overshadowing. A shadow study has not been carried out by the applicant.
- The hip roof to the rear extension does little to ameliorate the overshadowing that would arise. Were the extension to be setback by 1 metre from the boundary and the section that projects beyond the rear wall of the existing dwelling restricted to single storey then the impact would be negligible and acceptable to them.
- No dwelling in the cul de sac has matching windows on either side of the front door. Those cited at Nos. 70 and 71 are on much wider sites.
- The issues of overhang and access for construction or future maintenance have not been addressed.

- The foundations would likely extend beyond the boundary with the potential to undermine the foundation of the existing boundary wall.
- There is no precedent for a comparable development within the cul de sac. The examples given are on bigger sites which are shaped in a way that allowed extensions to be built that did not intrude on their neighbours.

6.2. Applicant Response

The submission by HRA Planning on behalf of the applicants can be summarised as follows:

- The bulk and scale of the extension is commensurate with the scale and form and pattern of urban development in the immediate vicinity and surrounding neighbourhood.
- The appellants' suggested alterations would be impractical and uneconomic.
- The applicants are prepared to setback the extension a maximum of 500mm from the side boundary. Development up to and along lateral and common boundaries is a relatively common practice in urban locations.
- Whilst the proposed development includes an extension along the lateral side of the dwelling its juxtaposition vis a vis the location and orientation of the appellants' adjacent gable wall will not introduce effects so materially different from what the appellants have achieved on their property, or so materially different from the existing arrangement which consists of opposing gable walls orientated onto a common (side) boundary which offers no amenity value to either.
- The proposal would not have a significant or adverse impact on the appellants' property by way of overshadowing. Given the proximity of their rear extension to the boundary wall there is little, if any, amenity orientation from the appellants' sun lounge eastwards towards the applicant property. It is submitted that the primary outlook of that room orientates outwards in a south western direction over their own rear garden. The opportunity for the proposed extension to impact on the amenity value of the sun lounge by way of overshadowing its side elevation is high unlikely.

- It is submitted that the shadow analysis illustrates that the shadow cast is remarkably similar in both scenarios. The shadow cast by the proposal on the appellant's ground floor rear extension is confined to the tiled roof (does not impact on roof light). It does not impact the rear glazed elevation or any other primary amenity window either on the ground or upper floor anymore than the existing arrangement.
- The building line of the proposed extension does not extend beyond the building line of the appellants' rear ground floor extension.
- The proposal will result in a balance of design to the front elevation of the property similar to the appearance on the appellants' house.
- The orientation of the 1st floor bedroom window is exactly the same as that of the other ground and 1st floor windows. It does not introduce some form of new orientation that is intended to overlook the appellants' rear garden. There has to be a degree of balance and reasonableness in terms of its suburban location.
- The applicants are satisfied that they have submitted technical details and assurances to the planning authority that no part of the proposal will extend beyond their property and encroach on the appellants' property by way of overhanging. They are satisfied that they would be able to maintain the side area of their property.
- The further information was considered by the Planning Authority. It addressed the information sought.

6.3. **Planning Authority Response**

No response received.

6.4. **Further Responses**

The applicants' response to the appeal was circulated for comment.

The submission by Adam Kearney Associates on behalf of the appellants can be summarised as follows:

- No.68 is the most constrained site in the cul-de-sac in terms of width. The rear garden depth could allow for a full length single storey expansion.
- The development is not replicating development on the appellants' site and is not comparable to other extensions in the cul de sac. Most of the dwellings that have been extended to the side beyond the garage wall within the Fairways development are on larger and better configured sites.
- The map extract is incorrect in that it shows the rear wall of No.68A extending significantly beyond the rear wall of No. 68. A more accurate representation provided.
- The contiguous elevation does not demonstrate the level differences between Nos. 68 and 68A which exacerbates the shadow impact.
- The response fails to demonstrate an understanding for the propensity for lateral overlooking. Their private open space will be greatly compromised. This is accentuated further by the inclusion of a seating area in the proposed bedroom.
- The new bay windows will be extremely close to the only existing bay window at No. 68A which raises serious privacy concerns, notwithstanding the proposed use of opaque glazing or landscaping.
- The gable bathroom window will be significantly impacted. It is another incremental impact of the overall proposal.
- The appellants consider that the shadow analysis demonstrates the negative impact the extension would have.
- The proposal to increase the separation distance to 500mm does not address the substantive issues arising.

7.0 Assessment

I consider that the issues arising in the case can be assessed under the following headings:

- Principle of Development
- Impact on Amenities of Adjoining Property
- Other issues

7.1. Principle of Development

The site subject of the appeal is within the mature residential area of Fairways in Monaleen and is zoned for residential purposes in the current Castletroy LAP. The stated purpose of the zoning includes the protection and provision for residential amenities. Whilst an extension and alterations to the existing dwelling are acceptable in principle there is an obligation to reconcile the need to meet the requirements of the applicants seeking to maximise accommodation with the requirement that such works should maintain the visual amenities and scale of the parent building whilst not compromising the residential amenities of adjoining property.

7.2. Impact on Amenities of Adjoining Property

As noted on day of inspection the appeal site is within the mature residential estate of The Fairways comprising of detached 2 storey dwellings, a number of which have been extended to the side with No. 62 directly opposite undergoing works. As can be extrapolated from the maps for the area the site is commensurate in size to a number of properties within the cul-de-sac and, in my opinion, is relatively generous in proportions with side access to the rear garden available from both sides.

The proposal entails the demolition of the existing single storey side extension and its replacement with a two storey extension with a hipped roof which is to extend beyond the rear wall of the dwelling by 2.150 metres. The said shared boundary with the appellants' property to the north is delineated by a block wall in the region of 1.6 – 1.8 metres in height. As proposed, the extension is to be setback 300mm from same with the agent for the applicants in the appeal response proposing to increase the setback to 500mm, although no plans to this effect have been submitted. Side

access to the rear garden area is to be maintained from the other side of the dwelling.

The proposed depth of the extension to the rear will not extend beyond the single storey extension to the rear of the appellants' dwelling. The said extension has glazing on three sides with a tiled roof in which there is a skylight. As a consequence of the existing layout and orientation of the properties and, as is evident from the shadow analysis that accompanies the appeal, the rear of the dwelling already experiences a certain level of overshadowing during the morning period. In my opinion the extension would not give rise to such an increase in same as to warrant a refusal on such grounds. I do not consider that the site differential of in the region of 0.5 metres would have any discernible impact in this regard.

Whilst the appellants are concerned as to the change in aspect from the side of their extension this must be considered in the context of its current aspect which is onto the shared boundary wall. The main aspect of the room which is onto the rear garden will not be impinged upon.

I note the appellants' reference to impact on the window in their gable wall. This serves an ensuite and has obscure glazing. The impact of the extension on same is considered acceptable.

Within such a suburban residential estate lateral overlooking from 1st floor windows is ubiquitous. In terms of overlook the existing 1st floor windows serving habitable rooms already overlook the appellant's garden. The proposal for a further 1st floor window in the rear elevation, albeit closer to the shared boundary with the appellants' property, would not result in such an increased level of overlooking relative to that existing as to warrant amendment or refusal on grounds of loss of privacy.

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The appellants also express concern regarding the potential for overlooking from the bay windows proposed to the front elevation. I note the bay windows in the appellants' property nearest to the shared boundary which are an original feature of the houses in the vicinity. The shared boundary to the front of the dwellings is delineated by a low block wall. I accept the applicants' wish to have a level of uniformity in the front elevation. The fact that other dwellings in the estate may not have such uniformity when extended to the side does not, in itself, render it

unacceptable. I consider that the proposal to install obscure glass to the side panel of the windows at both ground and 1st floor level to be reasonable to address concerns in terms of overlooking. The said measures, in addition to obscure glazing in the 1st floor ensuite window in the gable wall, are detailed on the drawings submitted by way of further information.

A grant of permission in this instance does not permit the applicants to access lands not in their control to allow for construction or to allow for overhang of gutters etc. In this regard I would recommend that the applicant be informed of the provisions of Section 34(13) of the Planning and Development, Act, 2000, as amended, which states that a person shall not be entitled solely by reason of a permission to carry out any development.

In conclusion I consider that the extension would be appropriate in size and scale and I am satisfied that the amenities currently enjoyed by the appellants would not be adversely compromised by way of overlooking or overshadowing. I therefore recommend a grant of permission subject to conditions.

Other Issues

7.3.

Appropriate Assessment

Having regard to the location of the site and the nature and scale of the proposed development 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

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that permission for the above described development be granted for the following reasons and considerations subject to conditions.

9.0 Reasons and Considerations

Having regard to the residential land use zoning for the area, the objective for which is to protect the amenity of existing residential areas, to the pattern of development in the area and to the scale, nature and design of the proposed extension, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not endanger public safety by reason of traffic hazard and obstruction of road users 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 25th day of March, 2019 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 proposed extension shall be setback a minimum of 500mm from the northern (side) boundary. A revised site layout plan with the necessary alterations shown thereon shall be submitted to the planning authority for its written agreement prior to commencement of development.

Reason: In the interest of residential amenities of property in the vicinity.

3. The existing dwelling and proposed extension shall be jointly occupied as a single residential unit and the extension shall not be sold, let or otherwise transferred or conveyed, save as part of the dwelling.

Reason: To restrict the use of the extension in the interest of residential amenity.

4. The external finishes of the proposed extension shall be the same as those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. Site development and building works shall be carried out only between the hours of 0800 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 residential amenities of property in the vicinity.

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.

Pauline Fitzpatrick
Senior Planning Inspector

July, 2019