



An  
Bord  
Pleanála

## Inspector's Report ABP 305950-19

### Development

Retention of (a) demolition and rebuilding of an existing flat roof annex to side of dwelling and (b) replacement of flat roof with a pitched roof together with revisions to the front elevation and associated site works.

### Location

15 Mayorstone Crescent, Mayorstone, Limerick.

### Planning Authority

Limerick City and County Council

### Planning Authority Reg. Ref.

19/939

### Applicant

Caitriona Nash

### Type of Application

Retention Permission

### Planning Authority Decision

Refuse

### Type of Appeal

1<sup>st</sup> Party v. Refusal

### Appellant

Caitriona Nash

### Observer

Andrew Burke

06/02/19

### Date of Site Inspection

### Inspector

Pauline Fitzpatrick

## 1.0 Site Location and Description

The appeal site is in a cul-de-sac within the mature residential area of Mayorstone accessed from Shelbourne Road c. 2km to the north of Limerick city centre. No.15 comprises a semi-detached two story dwelling with single storey side annex. A lane which provides rear vehicular access to properties along both Mayorstone Crescent and Shelbourne Road (also referred to as Mayorstone Drive at this location) forms the northern boundary of the site.

The road network within the residential area is constrained with narrow road widths and restricted turning areas. Signage at the entrance imposes a 3 tonne HGV restriction.

## 2.0 Proposed Development

Retention permission is sought for the demolition and rebuilding of the single storey annex to the side of the dwelling with a stated floor area of 49.6 sq.m. and replacement of the flat roof with a pitched roof. Revisions to the front elevation also form part of the application.

The application is accompanied by a covering letter and land registry details.

## 3.0 Planning Authority Decision

### 3.1. Decision

Refuse retention permission on the grounds that the applicant has not demonstrated sufficient estate or interest in the relevant land to allow for the overhang. The development impinges on a long established access route for neighbouring properties and would be detrimental to the amenities and depreciate the value of properties in the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

The Planner's report notes that the overhang as created impinges on the amenity of the residents of Mayorstone Drive and has created a situation where a long established access route to the rear of these properties is impacted negatively. A refusal of retention for one reason recommended.

### 3.2.2. Other Technical Reports

Executive Engineer in an email dated 25/09/19 recommends a condition precluding the construction of a chimney or flue for a solid fuel burning appliance.

### 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 in on file for the Board's information. The issues raised are comparable to those in the observation received and summarised in section 6.3 below.

## 4.0 Planning History

From the details given in the covering letter accompanying the application I note:

18/745 – application for retention of works was withdrawn.

Reference is made to enforcement proceedings initiated by the City and County Council.

## 5.0 Policy Context

### 5.1. Development Plan

The site is within an area zoned residential in the current Limerick City Development Plan.

### 5.2. Natural Heritage Designations

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The submission by AK Planning on behalf of the applicant against the planning authority's notification of decision to refuse retention permission can be summarised as follows:

- The applicant submitted a land registry map with the application. The applicant is satisfied that the extension and overhang are within the curtilage of the subject property. Whilst the letter accompanying the application stated that the original flat roof had an overhang it did not state that the overhang or the additional 100mm of soffit which forms part of the development were outside of the curtilage or were overhanging 3<sup>rd</sup> party lands. The slight increase in the depth of the overhang is within the boundaries of the applicant's property.
- The development in no way inhibits access along the lane. The lane is 4 metres wide and has not been altered. It is being used without incident. The overhang is c. 3 metres over ground level, and as per the overhang on the property on the other side of the lane, is above the level of mirrors on a large van and HGV. Photo submitted in support.
- Waste collection operators have not used the lane in recent years due to the 3 tonne vehicle restriction.
- The proposal does not encumber or hinder the amenities of properties.

### 6.2. Planning Authority Response

None received.

### 6.3. Observations

An observation from Andrew Burke can be summarised as follows:

- Nos. 1-7 Mayorstone Drive which front onto Shelbourne Road have no vehicular access on this road. Vehicular access is from the lane off

Mayorstone Crescent. The overhang of the properties to either side of the lane have historically not caused problems.

- The overhang and heating system vent to be retained has caused issues. A refuse company will not use the lane for collection with the overhang cited as problematic.
- The overhang is dangerous for unsuspecting drivers of large vehicles.
- Access to his property has been hindered which will have the knock on effect in terms of devaluation of property.
- It is a public road and access should be protected.

## 7.0 Assessment

The site subject of the appeal is within the mature residential area of Mayorstone and is zoned for residential purposes in the current Limerick City Development Plan. The stated purpose of the zoning includes the protection and provision for residential amenities. Whilst alterations to the existing dwelling are acceptable in principle there is an obligation to reconcile the need to meet the requirements of the applicant with the requirement that such works should not compromise the residential amenities of adjoining property.

The replacement of the original flat roof annex with a single storey pitched roof extension is modest in scale, complementary to the main dwelling and is acceptable in principle. The substantive issue pertains to the 200mm overhang of the lane adjoining. The agent for the applicant states that the original annex had a 100mm overhang. I note that the dwelling that sides onto the lane to the north (No.16) also has an overhang.

The lane provides access to the rear of the properties along this side of Mayorstone Crescent which also have the benefit of front vehicular access. The lane is also the principal means of access to Nos. 1-7 Mayorstone Drive which front onto Shelbourne Road. The said dwellings, by reason of their elevation above the road and configuration, only have pedestrian access from the front.

The lane in question has a width of approx. 3.9 metres at its entrance from Mayorstone Crescent and is approx. 4 metres along the length of the annex. As

evidenced on inspection this annex would appear to be setback marginally from the rear garden boundary wall with a strip of ground along the extension differentiated from the lane by reason of the surface finish. On the basis of these details there appears to be merit in the agent for the applicant's contention that the overhang is within the property boundary. It is not possible to definitively state either way from the details on the land registry map on file by reason of the scale. As noted by the agent for the applicant the registry operates a non-conclusive boundary system.

On balance, therefore, I consider that the applicant has demonstrated sufficient interest in the relevant land to allow for the overhang and that any other issues arising between the applicant and adjoining property owners would constitute civil matters for resolution through the appropriate legal channels.

The observer expresses concern that HGVs are no longer able to use the lane safely with consequent impacts on his residential amenities. As noted on day of inspection a 3 tonne HGV restriction is in place thereby precluding access by such vehicles including refuse trucks along the lane. Notwithstanding, visual evidence is provided in support of the application and appeal showing comparable vehicles having gained access which would suggest that access by emergency vehicles would be possible. On this basis I do not consider that the residential amenities of adjoining property are adversely affected.

#### *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 foregoing I recommend that retention permission for the above described development be granted for the following reasons and considerations.

## 9.0 Reasons and Considerations

Having regard to the residential zoning objective for the area which seeks to protect the residential amenities of the area, the pattern of development in the vicinity and the scale, nature and design of the works to be retained, it is considered that the development to be retained would not seriously injure the amenities of the area or of property in the vicinity and would not endanger public safety by reason of traffic hazard or obstruction of road users. The proposed development to be retained would, therefore, be in accordance with the proper planning and sustainable development of the area.

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**Pauline Fitzpatrick**  
**Senior Planning Inspector**

**February, 2020**