



An
Bord
Pleanála

Inspector's Report ABP-307763-20

Development	Demolition of former commercial unit and construction of house
Location	Boroview, O'Donoghue Avenue, Janesboro, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/332
Applicant(s)	Eric Byrnes
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eric Byrnes
Observer(s)	Margaret Nolan
Date of Site Inspection	22 nd September, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located on the east side of O'Donoghue Avenue, Janesboro in Limerick City. There is an existing derelict structure on the site which is stated in the application to be a former commercial unit. Development in the immediate vicinity consists of a range of building types and uses inclusive of residential and commercial units which are single storey and two storeys in height. There is a single storey house to the north-east of the site and a two-storey house to the south-west. The rear garden of the latter adjoins the site.

2.0 Proposed Development

2.1. The site of the proposed development has a stated area of 0.007 hectares. The proposed development would comprise the demolition of a former commercial unit and the construction of a house. The proposed house would be two storeys in height, would be a two bedroom unit and would have a stated gross floor area of 88.5 square metres. The house would be set back from the road edge to provide a planted area to the front. Pedestrian access at the southern end of the road frontage would lead to a patio to the south-east corner of the site behind the house.

3.0 Planning Authority Decision

3.1. Decision

On 7th July 2020, Limerick City & County Council decided to refuse permission for the proposed development for one reason relating to overdevelopment of the site.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, the zoning provisions, the reports received and the third party submissions. It was noted that the site curtilage is extremely limited and that the proposed first floor window overlooks the private open space of the house to the south. It was considered that the development would be overbearing in size and scale having regard to the size of modest adjoining property.

The side access was viewed as not constituting useable private open space. It was acknowledged that on-street parking is available outside the site and that the site was formerly a commercial unit. It was submitted that the site could accommodate a single storey dwelling. It was concluded that the proposal constitutes overdevelopment and would be injurious to the residential amenity of existing residents. A refusal of permission was recommended.

3.2.2. Other Technical Reports

The Environmental Services Technician provided a condition to attach should planning permission be granted.

3.3. **Prescribed Bodies**

Irish Water had no objection to the proposal.

3.4. **Third Party Observations**

An objection to the proposal was received from Margaret Nolan. The observation reflects the principal concerns raised.

A further objection was received from Laura Murphy which raised concerns relating to the plot being unsuited for a dwelling, poor amenity provisions, fire safety, overlooking, overbearing impact, lack of parking, devaluation of property, and the site's planning history of refusal.

4.0 **Planning History**

P.A. Ref. 80/268

Permission was refused for manufacturing of sausage products.

P.A. Ref. 09/770008

Permission was refused for the demolition of the former commercial unit and the construction of a two storey house.

5.0 Policy Context

5.1. Limerick City Development Plan

Zoning

The site is zoned 'Residential' with the objective "To provide for residential development and associated uses".

Infill Housing

In order to comply with general policy on infill sites and to make the most sustainable use of land and existing urban infrastructure, the planning authority permits the development of infill housing on appropriate sites. In general, infill housing should comply with all relevant Development Plan standards for residential development, however, in certain limited circumstances; the Planning Authority may relax the normal planning standards to allow development to take place.

In all cases, where permitted, infill housing should:

- Have regard to the existing character of the street by paying attention to the established building line, proportion, heights, parapet levels and materials of surrounding buildings.
- Comply with the appropriate minimum habitable room sizes.
- Have a safe means of access to and egress from the site which does not result in the creation of a traffic hazard

5.2. Appropriate Assessment

It is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.3. EIA Screening

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

Overdevelopment

- The site area is 80.4 square metres, the footprint of the building is 54m.3 square metres, and the site coverage is 67.53%. This is below the maximum of 80% in the City Development Plan.

Overlooking and Overbearing Impact

- The development will add to the value of the neighbouring properties. There is a derelict building and continued commercial use would be more detrimental to neighbours.
- There is only one window which could be said to be overlooking and this can be addressed. A screen could be provided over this window or alternatively this window could be removed and windows would be provided only to the front. Revised drawings are submitted demonstrating this.
- The adjoining development to the north/east, Cara Lodge, fits in with the proposed development. There is no set design on the street. The neighbouring dwelling, Laurel Ville, to the north/east has a roof ridge line higher than the line of the proposed dwelling, as does the neighbouring house to the south/west, Roslyn.
- There would be no overshadowing of Roslyn. The neighbouring dwelling, Tenedos, may have slight overshadowing in late evenings at the rear of the garden.

Useable Private Amenity Space

- Section 16.26 of the Development Plan requires 15 square metres of open space per bed space. There are many cases in the city where this rule has been relaxed (examples are provided). A one bedroom design can be provided if preferred (Drawings attached). The area of open space to the side and rear is 15 square metres.

Length of Rear Garden

- There is currently no minimum length of rear garden relating to private open space in the Development Plan provisions. A 20 metre separation between opposing windows at first floor level and above is normally required. There will be no opposing windows at first floor level.

Boundary Treatment

- The appellant would be willing to work with neighbours on the type and height of shared boundaries which would be carried out at the appellant's expense.

The drawings attached provide three options for the Board's consideration – a two bedroom unit with grill to the rear bedroom window at first floor level, a two bedroom unit with windows at first floor level to the front, and a one bedroom unit with windows to the front at first floor level. The appeal submission also includes derelict site correspondence from Limerick City & County Council, a letter from the owner of Cara Lodge adjoining the site stating he has no objection to the proposal, and details relating to other planning applications (P.A. Refs. 17/8017, 16/1173, and 17/161).

6.2. Planning Authority Response

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

6.3. Observations

The observer Margaret Nolan is the owner and resident of the house 'Roslyn' in Clansfort Terrace which is immediately south-west of the site. The submission to the planning authority is attached which includes concerns relating to misleading information, inadequate private open space, overlooking, boundary treatment, lack of car parking, and overshadowing. Reference is also made to the appeal submission.

It is submitted that the planning permissions cited as precedents in the appeal only serve to highlight the inadequate form of the proposed development. It is further submitted that the size of the proposal is over-ambitious relative to the site size, having scant regard for neighbouring properties, with no proposals to address overshadowing. Accepting the alternative options for first floor bedrooms would alleviate overlooking at first floor level, it is submitted that this would not overcome the overdevelopment of the site. It is argued that the development would need to be fully redesigned to provide a smaller footprint. It is also submitted that the proposal ignores an unresolved encroachment issue.

7.0 Assessment

- 7.1. The site of the proposed development contains a derelict structure which does not present a visually pleasing façade to the street. It is accepted that redevelopment of this site would enhance the general street frontage along this section of O'Donoghue Avenue. However, the site is severely restricted in area and is additionally constrained by the nature of development in the immediate vicinity.
- 7.2. The proposed development seeks to accommodate a two bedroom, two-storey, house on a site stated to be 80.4 square metres in area. It is evident from the submitted site layout plan that the consequence of the development of this house is such that the house would be built up to its perimeter to the north-east and to the rear boundary at the south-east. The remainder of the site is effectively leftover space that can facilitate a pedestrian access and pathway along the south-west side of the house that would lead to the back door of the house into the living area. The ground floor plan indicates that the area outside of the back door would be developed as a patio. This would be just over four square metres in area. Added to this amenity space would be a green edging to the patio and a green strip along the house's road frontage. Having regard to the nature and extent of the outdoor spaces being provided, it is very clear that this development would provide a wholly inadequate level of functional private amenity space. The patio area could effectively accommodate refuse bins and there would be no private amenity space left over for other purposes. As a result of the overdevelopment of this site, the development would provide substandard accommodation for any occupants of this house. The Board will note that this outcome would remain when regard is had to the appellant's

range of alternative options submitted for the Board's consideration in the appeal submission.

- 7.3. The consequence of developing a house of this height and scale on this constrained site is that it would have adverse consequences for the amenities of residents occupying the houses that adjoin this plot. The house would be separated from the back garden of the observer's house by the width of the narrow path along the flank of the proposed house. It is clearly understood that no resolution has been forthcoming on the orderly development of flank boundaries on this site with neighbouring properties. Accepting that issues relating to overlooking windows from above ground floor level can be resolved, it remains that the development of a two-storey house would have a very imposing impact on the observer's property and it can reasonably be concluded that this would culminate in an overbearing impact given its proximity, notably when viewed from the private rear garden space of this adjoining house.
- 7.4. Further to the above, in my opinion, there would be a notable degree of incongruity with the adjoining single storey dwelling immediate to the north-east and with the streetscape. The two-storey house would immediately abut this house and could reasonably be understood to be visually discordant and somewhat out of character with the street. While I accept that there is a broad range of house types at this location, the separation of buildings based on height, design and character remain distinctive features of the established streetscape. The superimposition of the proposed two-storey house, with its hipped roofs, mix of finishes, lack of curtilage to the front of the proposed house, and notable contrasts with the abutting small single-storey dwelling each add up to form a development that is out of character with the residential streetscape.
- 7.5. Having regard to the above, it is my submission to the Board that the proposed development constitutes a gross overdevelopment of this site and produces a development that would be out of character with this streetscape.

8.0 Recommendation

- 8.1. I note that the issue of incongruity with the streetscape constitutes a new issue. I, therefore, recommend that permission is refused in accordance with the following reason and considerations.

9.0 Reasons and Considerations

Having regard to the scale, height and layout of the proposed development and to the restricted nature of the site culminating in the lack of functional private amenity space, it is considered that the proposed development would constitute overdevelopment of the site and would provide substandard accommodation for the occupants of the proposed residential unit. Furthermore, having regard to the orientation, layout and proximity of the proposed development to adjacent residential properties, it is considered that the proposed development would have a significant overbearing impact and would seriously injure the amenities and depreciate the value of property in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

7th October 2020