



An
Bord
Pleanála

Inspector's Report ABP-308573-20

Development	Remove roof structure, construct a third floor within a revised roof structure for residential accommodation, and erect fire escape
Location	46 Nicholas Street, Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/803
Applicant(s)	Philip Conway
Type of Application	Retention & Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Philip Conway
Observer(s)	Cáit Ní Cheallacháin An Taisce
Date of Site Inspection	16 th February, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located at the junction of Nicholas Street and Athlunkard Street in Limerick city centre. It is located opposite St. Mary's Cathedral. The development presents in accordance with the plans and details submitted with the planning application. It is a three storey structure with commercial use at ground floor level and residential accommodation overhead. The roof of the structure has been redeveloped in recent times, reflected in the submitted drawings. The location for the proposed fire escape to the rear of the building is within the footprint of Bourke's Castle, a protected structure and recorded monument.

2.0 Proposed Development

- 2.1. The proposed development seeks the retention of the removal of the existing roof structure and the construction of a third floor within a revised roof structure for residential accommodation and permission to erect a fire escape external stairs to the north-east gable of the building.

3.0 Planning Authority Decision

3.1. Decision

On 8th October 2020, Limerick City & County Council decided to refuse permission for the proposed development for one reason relating to the proposal being contrary Policies BHA.11 and BHA.12 of the Limerick City Development Plan and the Architectural Heritage Protection – Guidelines for Planning Authorities.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history, development plan provisions, reports received, and the third party submission made. It was noted that there is a current enforcement file relating to the site. It was submitted that the main issues with the application related to the design, visual appearance, and the use of facing/finishing materials, including the roof structure and external fire escape stairs. The

development was seen to be visually obtrusive, incongruous with existing development, and would detract from the character and visual amenities of the historic area. In terms of the archaeological, architectural and cultural significance of the building, the development was seen to be inappropriate, detracting from the character of the adjoining protected structure and encroaching on the wall which forms the site boundary. It was further considered that the development would not be in keeping with Policies BHA.11 and BHA.15 of the City Development Plan. Site coverage was viewed as being very high, the rear yard was seen as not being conducive to private amenity, and the one balcony area was considered very limited. The proposed fire escape stairs were considered incongruous with the building and its setting. A refusal of permission was recommended.

3.2.2. Other Technical Reports

The Fire Officer observed that the submitted drawings did not distinguish between the extent of works stopped by enforcement and the proposed balance to be completed and submitted that the applicant had not appeared to have engaged with required Building Control requirements.

The Archaeologist considered the application did not provide sufficient detail on the standing remains or how the proposed development would interface with these remains. It was submitted that complete architectural and archaeological buildings analyses should have been provided. It was recommended that no decision should be given until a report is received.

The Conservation Officer noted the proposed fire escape would be within the footprint of Bourke's Castle, a protected structure. The structure erected on the building fronting Nicholas Street was considered injurious to the character and setting of the city's medieval core. It was further considered that permitting retention would damage prospects of creating an attractive tourism route from the early Georgian era area of expansion down to St. John's Castle. Permitting the fire escape was seen to compound the disregard for the buildings in the applicant's possession. The application was seen to disrespect City Development Plan policy BHA.11. Noting the necessary documentation to support the application, it was submitted that no amount of assessments, photographic records, or statements of justification could explain the removal of the northern gable and historic roofing structure, provide a

defence for what has been constructed, or warrant the construction of a fire escape on Bourke's Castle. A refusal of permission was recommended on the grounds the proposal was in breach of Policies BHA.11 and BHA.16 of the City Development Plan.

3.3. **Prescribed Bodies**

An Taisce emphasised the significance of the site of the proposed development. The proposed development was considered insensitive. The unauthorised nature of works that had taken place on the site were referenced. It was recommended that the application be rejected, unauthorised structures be removed, and historic fabric be reinstated.

3.4. **Third Party Observations**

The concerns raised in the observation reflect the principal issues raised by Cáit Ní Cheallacháin with the planning authority.

4.0 **Planning History**

The site's planning history includes:

P.A. 03/770409

Permission was granted for the change of use of an existing shed to a bar area and to relocate existing toilets and services.

P.A. 09/770272

Permission was granted for the retention of 3 existing antennae, 2 transmission dishes, and associated cabinets.

P.A. 12/770182

Permission was granted for the retention of 3 existing antennae, 2 transmission dishes, and associated cabinets.

5.0 Policy Context

5.1. Limerick City Development Plan

Zoning

The site is zoned 'City Centre Area' with the Objective ZO.1 "To support the retention and expansion of a wide range of commercial, cultural, leisure and residential uses in the City Centre as defined in the 2030 Economic and Spatial Plan."

Built Heritage

The site of the proposed development is within the curtilage of Bourke's Castle a protected structure (RPS 11) and a Recorded Monument (RMP Ref. No. Li-005-017003).

Policies include:

Policy BHA.11 Re-Use & Refurbishment of Structures of Architectural Heritage merit & Protected Structures

It is the policy of Limerick City Council to positively encourage and facilitate the careful refurbishment of the Structures of Architectural Heritage merit and Protected Structures for sustainable and economically viable uses.

Policy BHA.12 Record of Protected Structures (RPS)

It is the policy of Limerick City Council to protect all structures indicated on the Record of Protected Structure which shall include structures or parts of structures which are of special social architectural, historical, archaeological, artistic, cultural, scientific social or technical interest and continually review the Record where necessary.

Policy BHA.15 Record of Protected Structures

It is the policy of Limerick City Council that when it is proposed to alter or demolish a Protected Structure, either partially or totally, a full record of the structure and significant elements shall be prepared to the International Council on Monuments & Sites (ICOMOS) standard which shall be forwarded to the National Archive and the Architectural Archives for record purposes.

The Plan notes that both the curtilage and attendant grounds of a Protected Structure are included for their protection within the definition of a Protected Structure as they are defining elements of the building/structure.

Policy BHA.16 Historic Landscapes

It is the policy of Limerick City Council to ensure the historic landscapes and gardens throughout the City are protected from inappropriate development.

5.2. Appropriate Assessment

The site of the proposed development is located within the city centre serviced urban area of Limerick City at a location which is separated from Lower River Shannon SAC (Site Code: 002165) by extensive buildings, infrastructure and other developments. Having regard to the nature, scale, and location of the proposed development, the serviced nature of the development, the nature of the receiving environment, and the separation distance to the nearest European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

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 summarised as follows:

- The building was previously in a very poor state before the appellant acquired it and repair works were undertaken. The roof level was in a terrible condition with woodworm and wet rot. It was used as a living quarter.

- The fire escape stairs were removed and the structure is adjacent to but not within the curtilage of the protected structure.
- The Conservation Officer confirmed the development on the site is a separate structure from the protected structure.

6.2. **Planning Authority Response**

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

6.3. **Observations**

Cáit Ní Cheallacháin raised concerns relating to the precedent that would be set if permission was granted, the impact on a protected structure and recorded monument and on a building of heritage value, works occurring during Covid lockdown and by workers without protective clothing, and structural stability.

An Taisce raised concerns relating to the works undermining the archaeological, historical and heritage value of the building and its curtilage and the misuse of the planning process. The photographs submitted by the appellant are considered to have no valid place in the appeal. It is requested that the appellant be required to remove the unauthorised works and reinstate those parts of the historic fabric previously removed and that before works are carried out the site be given the benefit of archaeological and architectural evaluation.

7.0. **Assessment**

7.1. Introduction

7.1.1 I consider that the principal planning issues for consideration relate to the form and character of the roof extension and fire escape stairs and the impact of the proposed development on architectural heritage.

7.2. Form and Character of the Proposed Development

7.2.1. The proposed development is located in the historic core of Limerick City where the medieval layout of the city remains, influencing the development of streetscapes and the street patterns. While the structure the subject of the appeal is not a protected structure, it is evident from the details provided from the Conservation Officer, the Archaeologist and An Taisce that the structure is an integral component of the historical streetscape at a pivotal location on the junction of the historic streets of Nicholas Street and Athlunkard Street, immediately opposite St. Mary's Cathedral, and sited on elevated lands north of the River Shannon. The streetscape is very distinctively defined in character, retaining narrow widths, prominent structures of community and public importance, and tightly aligned terraced buildings. The building on the appeal site forms a significant structural component of this setting because of its key prominent location at the road junction. With the exception of the recent alterations at its upper level, the building presents an historic form and character which to date has remained generally intact in its public presentation.

7.2.2. The sensitivity of this site is compounded by Bourke's Castle, a protected structure and recorded monument, immediately abutting it. While little remains of this protected structure on view publicly, the remnants of its elevation to Athlunkard Street are prominent, very distinguishable and clearly make a valuable heritage contribution to the streetscape.

7.2.3. Prior to the redevelopment of the roof of the building on the site, it is evident that the building presented as having a roof form somewhat typical of the historic character of the building, being a simple, tidy, slated, and unobtrusive component of the building. This may reasonably be gauged from the photographs and drawings contained within the appeal file. However, the removal of part of the north-eastern elevation at the upper level and the replacement of the roof by a blocky new roof structure to accommodate the changes at the upper level have significantly distorted the

presentation of the building on all approaches to this junction. It is reasonable to determine that the proposed changes at the upper level have introduced a significantly prominent component at roof level, a structure that is particularly distinguishable from all of the approach roads, and one which is incongruous with the historic built form of this streetscape and indeed with the building itself. The form, finishes, bulk and character of the roof level changes could not be seen to be compatible with the existing building or the streetscape. It may reasonably be ascertained that this new addition is visually intrusive on the streetscape and is incompatible with the historic building.

7.2.4. Further to this, I note the proposal to provide an external fire escape stairs. It is my submission to the Board that this will add substantially to the incongruity of what is being developed at this site. This will be a visually prominent component of the development also from Athlunkard Street. There can be no masking of the visibility of this structure at the upper levels. This is visually incompatible along with the intrusive modern balcony and the bulky block of the roof structure.

7.2.5. In conclusion, I consider that the proposed development is wholly misplaced, distinctively out of character with the historic building and the streetscape, and is visually intrusive.

7.3. Impact on Architectural Heritage

7.3.1. It has been noted above that the site of the proposed development is within the historic core of Limerick City and that the structure abuts Bourke's Castle, a protected structure and recorded monument. I note and accept the Conservation Officer's findings that the proposed fire escape would be within the footprint of the protected structure. It cannot be otherwise given the protected structure abuts the existing building the subject of the appeal. The Conservation Officer notes that a bay of the castle survives both beneath the current street levels and above ground. This

physical impact, together with the incongruity of the intrusion into the building at the upper level, could not be viewed as being careful refurbishment of a building on and in the vicinity of a protected structure or the city's historic streetscape. It is, thus, reasonable to determine that the proposed development would run contrary to Policy BHA.11 of the City Development Plan which seeks to positively encourage and facilitate the careful refurbishment of the Structures of Architectural Heritage merit and Protected Structures for sustainable and economically viable uses.

7.3.2. I further note the lack of information on the historic roof that has been replaced and the lack of architectural heritage assessment undertaken on behalf of the applicant to inform the changes made and supporting the direct loss of historic fabric of the building. This should have been a substantial component of information supporting this application given its immediate impact on the structure of historical significance and given the direct impact on the protected structure.

7.3.3. Finally, I note the Architectural Heritage Protection Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government in 2004. Section 13.1 submits that 'curtilage' can be taken to be the parcel of land immediately associated with the protected structure and which is (or was) in use for the purposes of that structure. It may, therefore, reasonably be adduced that the proposed fire escape stairs would be within the curtilage of (if not sited on) Bourke's Castle.

7.3.4. Chapter 17 of the Guidelines refers to fire safety and Section 17.2.3 states:

"... Fire-safety design solutions should impact as little as possible on the important elements and fabric of a protected structure. In principle, there should be minimal intervention into the existing fabric of the protected structure, and alterations which impact on important fabric should be readily reversible."

7.3.4. Section 17.4.2 of the Guidelines states:

“... The use of external escape stairs should be avoided where possible because of their large and usually negative impact on the external appearance of the building.”

7.3.5. It is apparent that the proposed development includes direct impact on Bourke’s Castle and that the external stairs would be a visually prominent component of the existing building which would have a notable degree of visual incongruity with the protected structure. I observe that there has been no fire risk analysis undertaken by the applicant to determine the range of alternatives available and the most suitable option to be chosen in the interest of providing the necessary fire safety installations within the building, while at the same time providing protection and avoidance of unnecessary physical intrusion into the protected structure. For these reasons, it may reasonably be determined that the proposed development is not compatible with the provisions of the Guidelines.

7.3.6. In conclusion, I am satisfied to determine that the proposed development would have notable adverse impacts on the cultural heritage of this area, with direct adverse impacts on a protected structure, undermining the setting of this historic location, and being incompatible with Limerick City Development Plan and Architectural Heritage Protection Guidelines’ provisions.

8.0 Recommendation

I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

Having regard to the location of the existing development being within the historic medieval core of Limerick City, the prominent siting of the development on elevated lands north of the River Shannon at the junction of the historic streets of Nicholas Street and Athlunkard Street, the contribution the existing structure makes to the

historic fabric, form and character of the historic streetscape, and the immediate proximity of the proposed development to Bourke's Castle, a recorded monument and protected structure, it is considered that the proposed development, by reason of the loss of the original historical fabric of the existing building, the replacement of the roof by an intrusive, large roof structure excessive in bulk, scale and character, and the direct impact of the proposed fire escape stairs on the protected structure, would create a visually prominent and incongruous feature which would detract significantly from the architectural integrity and historical significance of the medieval streetscape, and the protected structure and its setting. The proposed development would, therefore, be contrary to Policy BHA. 11 of the Limerick City Development Plan, which seeks to positively encourage and facilitate the careful refurbishment of the structures of architectural heritage merit and protected structures for sustainable and economically viable uses. Furthermore, the proposed development would be inconsistent with the *Architectural Heritage Protection Guidelines for Planning Authorities* published by the Department of the Environment, Heritage and Local Government in 2004 with regard to the conservation of the curtilage of protected structures and the provision of fire safety installations for protected structures. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

24th February 2021