



An
Bord
Pleanála

Inspector's Report

ABP-308625-20

Development	Conversion of existing outbuilding to 2 bed apartment.
Location	O'Dwyer House, South Circular Road, Courtbrack Avenue, Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	20531
Applicant(s)	Mary Immaculate College.
Type of Application	Permission.
Planning Authority Decision	Grant Permission with conditions
Type of Appeal	Third Party
Appellant(s)	Mary O Keeffe. Helen Delaney & Greg Leddin Caroline Fitzgibbon & Michael O Connor Pat & Carolyn O Byrne
Observer(s)	None.
Date of Site Inspection	15 th February 2021
Inspector	Bríd Maxwell

1.0 Site Location and Description

- 1.1. This appeal relates to a site comprising an existing building to the rear of an established student residence known as O' Dwyer House located on South Circular Road, Courtbrack Avenue¹, Limerick. The site is owned by Mary Immaculate College the main campus of which is located to the northeast. The site is within a well-established residential area characterised by predominantly two storey semi detached and detached dwellings on large sites whilst there are also a number of educational institutions and schools in the area. Vehicular access to the overall site is shared with adjacent residential development to the east while pedestrian gateway is also provided from the western side of the road frontage.
- 1.2. The structure on the site, extends to 56.7 sq.m. and is a single storey gable fronted with plaster finish and slate roof. Windows are provided to southern eastern and western elevations and a number of rooflights in the roof plane. Adjacent to the north of the site within the grounds of the Mary Immaculate College is the site of a disused /derelict building 'Laurel Lodge'.

2.0 Proposed Development

- 2.1. The application involves the conversion of the existing outbuilding and formerly an 'artist studio' to a two-bed apartment associated with existing student residential accommodation, minor alterations and all associated site works. The internal layout provides for two bedrooms, a bathroom and a kitchen / living / diningroom.
- 2.2. Following a request for additional information amendments were made to the southwestern elevation including relocation of the main entrance from here to the eastern side elevation. It is proposed to provide a controlled pedestrian access to the west of O Dwyer house.

¹ I note that Courtbrack Avenue merges with Ashbourne Avenue and the third-party appellants contend that the correct site address is Ashbourne Avenue. I note that historical maps denote the roadway in front of the site as Courtbrack Avenue.

3.0 Planning Authority Decision

3.1. By order dated 16th October 2021 Limerick City and County Council issued notification of its decision to grant permission subject to 7 conditions of which "I note the following

Condition 2 Development Contribution €1,134.00

Condition 3. Prior to any students taking up residence a controlled pedestrian access to be provided to the north of the site for students in residence at O Dwyer House and the proposed residential unit. Full details of the management of this controlled access shall be provided for the written approval of the planning authority within one month of grant of this permission.

Condition 4. The development shall be used to provide residential accommodation for international students only.

Condition 5. Prior to any students taking up residence alterations as set out in documentation of 22/09/20 to be carried out. Window to southern elevation to consist of opaque / frosted glass.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.1.1 Planner's initial report outlined concern regarding impact on adjacent residential amenity and recommended the removal of the window to the southern elevation and relocation of the main access to the side of the building. Clarification was also sought regarding intended use and the first party was invited to respond to third party objections.

3.2.1.2 The second Planner's report recommended permission subject to conditions including provision of a controlled pedestrian access point to the college campus to the north of the site in the interest of pedestrian connectivity.

3.2.2. Other Technical Reports

Fire and Building Control Report. No objection subject to standard compliance with building regulations.

3.3. Prescribed Bodies

No submissions

3.4. Third Party Observations

3.4.1 Submission from the following neighbouring residents

- Helen Delaney & Greg Leddin, residents of adjacent dwelling Hilden to the northwest.
- Caroline Fitzgibbon and Michael O Connor 14 Asbourne Park, Courtbrack Avenue adjoining to the western boundary of the site.
- Mary O Keefe, 13 Ashbourne Park to the northwest of the site.

3.4.2 The submissions raised common concerns with regard to the proposed development which I have summarised as follows:

- Contravention of condition attached to the governing permission which restricted use to store room.
- Overlooking loss of privacy
- Notable ground level difference with adjacent dwellings will give rise to noise and disturbance nuisance.
- Haphazard, backland, piecemeal, ad hoc development.
- Substandard quality of residential development.
- Rooflights are unauthorised and should be regularised.
- Inaccuracies on the application.

4.0 Planning History

308614 Application for leave to appeal by Pat and Carolyn O Byrne, Marleen Ashbourne Park. The Board decided to grant leave to appeal as it had been shown that :

- (i) the development, in respect of which a decision to grant permission has been made, will differ materially from the development as set out in the application for permission by reason of condition number 3 imposed by the planning authority to which the grant is subject, and
- (ii) the imposition of condition number 3 will materially affect the applicant's enjoyment of the land adjoining the land in respect of which it has been decided to grant permission or reduce the value of the land.

13/770083 Permission granted for change of use of 13 & 14 Courtbrack Avenue from two single dwellinghouses to student accommodation comprising 8 no bedrooms bathrooms and living facilities. The existing standalone art room and store to be used as an artist studio for artist in residence at Mary Immaculate College. Works are within the curtilage of protected structures. During the course of this application a proposal to provide for a pedestrian pathway from the site to the Mary Immaculate Campus to the north was omitted arising from concerns in respect of impact on residential amenity.

Condition 3 required that the building referred to as the Art Room (Adelaide studio) shall be used for storage purposes only in association with the residential use of Number 13/14 Courtbrack Avenue.

5.0 Policy Context

5.1. Development Plan

5.1.1 The Limerick City Development Plan 2010-2016 as extended refers.

The site is zoned 2A Residential. The objective is "To provide for residential development and associated uses."

5.2. Natural Heritage Designations

The site is not within a designated area. The nearest such sites are the Lower River Shannon SAC (Site Code 002165) and the River Shannon and River Fergus Estuaries SPA (Site Code 004077).

5.3 EIA Screening

5.3.1 Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 There are four no third party appeals by the following neighbouring residents.

- Mary O Keefe 13 Ashbourne Park
- Helen Delaney and Greg Leddin Hilden Ashbourne Avenue
- Caroline Fitzgibbon and Michael O Connor 14 Ashbourne Park
- Pat and Carolyn O Byrne, Marleen Ashbourne Park

6.1.2 The submissions set out the ground of appeal in detail and include a number of photographs to elucidate the case made. Grounds of appeal raise a number of common issues which I have summarised as follows:

- Site notice made no reference to reorientating property and providing access through the back garden directly from campus.
- Significant change in proposal and route of access is unknown with no opportunity for third party review.

- Planning Office exceeded the remit of the application by proposing access directly from college to the north.
- Increased security risk for residents.
- Negative impact on residential amenity.
- Nature of soakpit on northeast corner of the building should be clarified.
- Erroneous information. Site is on Ashbourne Avenue not Courtbrack Avenue
- Security features controlling access to O' Dwyer House are not present.
- Proposed use is on contravention of previous permission.
- Haphazard backland development.
- Substandard quality of development.
- Unauthorised rooflights should be regularised.
- Use is not an ancillary use but a new use in its own right.

6.1.3 I note that the appeal submission by Helen and Greg Leddin requested an oral hearing of the case. Following consideration of the request the Board decided, as recommended by the Senior Planning Inspector, that there was sufficient written evidence on file to enable an assessment of the issues raised and that an oral hearing should not therefore be held.

6.2. Applicant Response

6.2.1 The response by Quinn Architects on behalf of the First Party is summarised as follows:

- Regarding the access to main campus via the site of the derelict house "Laurel Lodge" which is within the campus the college has not sought permission for a pedestrian link to the main campus as development on this site is not envisaged in the short term.
- The original application 13/770083 initially sought such a pedestrian route however it was omitted in response to request for additional information.

- Existing pedestrian access is sufficient.
- Proposed soakpit will address surface water run-off from the roof only.
- Rooflights would appear to have been part of the original construction. They are at a high level and are immaterial to the decision.
- Error in reference to Courtbrack Avenue was unintentional.
- System of access card reader will be installed on the gate prior to occupation of the development.
- Proposed change of use is consistent with the residential zoning of the area the residential character of the avenue and residential use of the O Dwyer house property as a whole.

6.3. Planning Authority Response

The Planning Authority did not respond to the appeals.

7.0 Assessment

7.1 I note the question of validity of the application arising from third party submissions with regard to reference to the appeal site location within the documentation and the public notices as Courtbrack Avenue as opposed to Ashbourne Avenue. I note that the Ordnance Survey maps suggest that Courtbrack Avenue and Ashbourne Avenue merge at some point in the vicinity of the site. I note that the historical maps denote the road to the front of the site as Courtbrack Avenue. I note that the site notices submitted with previous application 013/770083 also referenced the site location as Courtbrack Avenue. In my view the address given on the public notices as O Dwyer House, South Circular Road, Courtbrack Avenue, Limerick clearly identify the site location and the rights of third parties were not compromised in this regard.

7.2 Having examined the file, considered the prevailing local and national policies, inspected the site and assessed the proposal and all submissions, I consider that the

key issues arising in this appeal can be considered under the following broad headings:

- **Principle of Development**
- **Residential amenity of the proposed student accommodation and impact on established residential amenity**
- **Condition 3 requiring direct pedestrian access from college campus to the northeast**
- **Appropriate Assessment**

7.2 Principle of Development

7.2.1 As regards the principle of development the site is zoned 2A Residential in the Development Plan which in line with National Policy is also supportive of infill residential development and densification within the urban area where the character of the area and setting is enhanced and established residential amenity protected. The use of O' Dwyer House as a student residence is established and therefore I consider that the principle of change of use of the artist studio structure which is within the curtilage of O Dwyer House is acceptable and it therefore appropriate to assess the merits of the proposal in its detail. I consider that the proposal to consolidate the established student residence use is in line with the zoning objectives pertaining. As regards concerns that the proposal contravenes the original permission which restricts the use to storage purposes in association with the residential use of O Dwyer House I consider that it is appropriate that the proposed change of use is assessed on its merit.

7.3 Standard of residential amenity and impact on established residential amenity.

7.3.1 On the matter of the quality of accommodation provided within the proposed unit I note that the structure is single storey and modest in scale and given the unique circumstances of the site is not readily visible from the wider area nor unduly dominant in the immediate area. The unit has a floor area of 57 sq.m. with proposed

bedrooms circa 10.5sq.m and a common kitchen living dining area 18sq.m. (I note that the Department of Education and Science, Residential Development for 3rd Level Students Guidelines require single study bedroom of minimum 8sq.m and shared kitchen/dining living based on minimum of 4sq.m per bedspace. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, Department of Housing Planning and Local Government 2018 set a minimum floor area for a one bed apartment of 45sq.m with minimum floor area for single bedroom of 7.1sq.m). I consider that the proposed unit provides for a reasonable standard of residential amenity. I consider that the consolidation of the overall use of the O Dwyer House site for student residence accommodation would improve the possibilities in terms of improved access to the garden amenity area. I note that the overall site would benefit from additional landscaping to improve the outdoor amenity provided to the students however in light of the restricted nature of the redline boundary of the appeal site it is not feasible to impose conditions in this regard.

7.3.2 As regards impact on established residential amenity I note that the design interventions as proposed in response to the Council's request for additional information seek to mitigate the impact on established dwellings by way of providing the doorway access from the south-eastern façade of the building and amendments to the glazing on the southwestern façade opposing the rear of the established dwellings. I consider that these measures will mitigate visual and privacy impacts and the proposal is in my view is acceptable in the context of the established use of the site and the site's location within the built-up urban area. I note that rooflights within the building are high level and as the unit is single storey there is no opportunity for overlooking from same. I consider that the nature of the use, which is in association with the established use of O Dwyer House as a student residence for international students will not give rise to undue negative impact on established residential amenity subject to standard good management.

7.4 Condition 3 requiring direct pedestrian access from college campus to the northeast.

7.4.1 The third-party appellants cite significant concerns with regard to the imposition of condition 3 by the local authority which set out a requirement for the provision of a pedestrian access directly to the college campus to the north of the site. As outlined above the idea of such access had been mooted in the original application (PA Ref 13/770083) for change of use from residential to student accommodation and was omitted arising from the concerns of third parties with regard to security and other disturbance. I note that the submissions on behalf of the first party outline that the first party does not propose this access on the basis that the current access is adequate. I would concur with the parties to the appeal and consider that this condition as imposed by the local authority is neither necessary nor appropriate. As regards security I note that the first party proposes the installation of a card reader system to the established pedestrian access. In my view the proposal is acceptable in terms of its impact on established residential amenity and the level of use arising is not likely to give rise to significant impacts.

7.5 Appropriate Assessment

7.5.1 Having regard to the nature of the development, its location in a serviced urban area, and the separation distance to any 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.

7.6 RECOMMENDATION

7.6.1 I have read the submissions on the file, visited the site, had due regard to the development plan and all other matters arising. I recommend that planning permission be granted for the reasons set out below.

REASONS AND CONSIDERATIONS

Having regard to the land use zoning of the site of the proposed development, the established use of O Dwyer House as Student Residential Accommodation, the

pattern of development in the area, the design and layout of the proposed development, 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 be acceptable in terms of traffic safety and would be in accordance with the proper planning and sustainable development of the area.

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 plans and particulars received by the planning authority on the 23rd September 2020 as may otherwise be required in order to comply with the following conditions.

Reason: In the interest of clarity.

2. The use of the building shall be for student residential accommodation in association with the established use of O Dwyer House.

Reason: To clarify the permission in the interest of residential amenity.

3. All service cables associated with the proposed development (such as electrical, communal television, telephone, and public lighting cables) shall be run underground within the site. In this regard, ducting shall be provided to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interest of orderly development and the visual amenities of the area.

4. 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 and to ensure a proper standard of development.

5. 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.

Bríd Maxwell

Planning Inspector

15th February 2021