



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311134

<b>Development</b>	Construction of three storey detached house and associated site works previously granted under 09/770171 and 14/7040
<b>Location</b>	4 Revington Gardens, North Circular Road Limerick.
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	21510
<b>Applicant(s)</b>	Joseph Gilmartin
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third-Party
<b>Appellant(s)</b>	Mark Murray
<b>Observer(s)</b>	
<b>Date of Site Inspection</b>	14 <sup>th</sup> January 2022
<b>Inspector</b>	Suzanne Kehely

## 1.0 Site Location and Description

- 1.1. Remington Gardens is a newly built infill residential road accessed off and to the rear of houses on the Revington Park /North Circular Road – a mature residential area in Limerick City.
- 1.2. There are 13 plots which relate to the former rear gardens the houses on the southern side of NCR and 12 houses have been constructed. The southern side of the road is formed by boundary walls along the side boundaries of end of cul-sac houses in developments independently accessed from the south. There is a pedestrian link with Sunville to the south east and another link to the west. The house are on one side and they align with the plot widths on the Revington Park/North Circular Road. the original houses retained reduced gardens with depths at 24-28m. No. 37 which the subject site backs onto has a rear garden depth of 24m – 35m reflecting a partial extension to the side and rear.
- 1.3. The subject site remains undeveloped and is one of the wider plots. Houses on each side are substantially complete – no 3 to the west is double fronted and no.5 to the east is narrower and all houses feature façade gable bays.
- 1.3.1. The house site is about 12.4m wide and the plot width slightly widens at the frontage where it is 13m.

## 2.0 Proposed Development

The proposed development comprises the following:

- Construction of a three storey house – the third storey comprising attic accommodation with roof lights as the only source of natural light.
- It includes a gable projection to the rear. This extends the two storey footprint by 3.9m into the rear garden (11.7m deep from the façade at front door). The roof ridge over this projection extends 7.8m from the main ridge. It is set down the slope by about 200mm below the main ridge. Section c drawing and 2<sup>nd</sup> floor level shows this roof space to be a void.
- The ground floor plans also
- The house has a traditional layout in a contemporary minimalist style with rendered walls and tiled roof.

- The 1:500 site layout plan shows the proposed footprint relative to boundaries and adjacent properties.
- In further information it is clarified that that variations such as the omission of a dormer window and blank rear gable, roof lights and frosted glazed window were consider to be minor amendments to 09/70171 by reference to correspondence to the planning department confirming same.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

- 3.1.1. Following a submission of further information regarding drawings and third party objection the Planning Authority decided to grant permission subject to 12 conditions of a standard nature.
- Condition 2 clarifies scope of permission and relevant drawings.
  - Condition 10 requires obscure glazing in roof lights.

### **4.0 Planning Authority Reports**

#### **4.1. Planning Report**

The report refers to :

- Lapsed planning permission for the site and the financial circumstances relating to the delayed construction
- The objections relating to variances from previously approve plans, gable design and finishes and overlooking.
- Discrepancies are noted as referred to in the correspondence submitted as aprt of response to request for further information.

#### **4.2. Prescribed Bodies**

- Irish Water – no objection subject to conditions.

## **5.0 Planning History**

- PA ref 99/770171 refers to a grant of permission for 13 dwellings and PA ref 14/7040 refers to an extension of duration of this permission.

## **6.0 Policy & Context**

### **6.1. Development Plan**

- 6.1.1. The site is in an area zoned Residential (2A) in Map no.1 of the Limerick City Development Plan 2010-2016 as extended.
- 6.1.2. It is within the Ennis Road area where Limerick City Council is guided by the following specific objectives:
- To ensure an appropriate mix of uses in the area to support the primary residential function of the area these include specific supports for the elderly population of the area;
  - To ensure that an appropriate transportation system serves the area. Chapter 5 Transportation sets out the objectives to provide adequate pedestrian, cycling and public transport throughout the area;
  - To seek the development of the existing under utilised lands in the area;
  - To encourage a more sustainable and coordinated school mobility planning in the North Circular Road area;
  - To seek the development of the LPYMA that retains a sporting/community use;
  - To seek the development of disused sites in the area;
  - To promote a high standard of urban design with a clear sense of place and architectural quality that respects the existing character;
  - To ensure the provision of infrastructure appropriate to the needs of the area and the emerging intensification of use;
  - To ensure that development proposals do not undermine the potential of the wider area;
  - To promote development within the District Centre at Jetland so as to broaden its use mix;
  - To ensure that any sporting or cultural events taking place in the area are properly managed so as to minimise the disruption to local residents.

## **6.2. Natural Heritage Designations**

6.3. The nearest European sites are

- The Lower River Shannon SAC site code 002165 (300m south)
- The River Shannon and River Fergus Estuaries SPA – site code 004077 (500m south)

## **7.0 Environmental Impact Assessment - Preliminary Examination**

7.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **8.0 The Appeal**

### **8.1. Grounds of Appeal**

8.1.1. A third-party appeal has been lodged by Mark Murphy who objects to the material changes and impacts on his house to the rear at 38 Revington Park. The appeal is based on the following grounds:

- The house differs significantly from the original permission.
- The raising of roof ridge and eaves by 1.8m, and bulk and massing have a visual and oppressive impact as evident in no.3 constructed as compared to the original type A. (drawings attached)
- Revision of windows and 2<sup>nd</sup> floor windows with more overlooking and loss of privacy amounts to significant loss of amenity of dwellings to the rear. The insertion of one window is particularly objectionable.
- Potential of creating another room in the roof with a roof light
- The obscuring of glazing is not acceptable over the long term.

## **8.2. First Party Response**

8.2.1. While acknowledging the rights of the appellant, the submissions are considered to be exaggerated. More specifically it is stated:

- It is clarified that the main ridge was marginally increased from 8850mm to 9147mm to comply with Building Regulations.
- There are no rear facing windows in the projecting gable at 2<sup>nd</sup> floor level which respects privacy, and this has not been acknowledged .
- The bulk and massing of the roof is defended by reference to the separation distance from existing dwellings overall height and city suburb context.
- The guided separation distances of 22m between opposing windows in 2 storey dwellings in section 7.4 of Sustainable Residential Guidelines is cited in support of the proposed development and layout.
- The proposed attic roof window in the rear elevation is 56m from the appellant's dwelling.
- It is impossible to protect every area of the garden from some form of overlooking in an urban area.
- The provision of obscure glazing will be complied with by the applicant to protect privacy. Subsequent removal is a matter of enforcement which the appellant has an option to pursue if necessary.
- A reversion to the 2009 Velux roof light layout would require modifications such as provision of a cil height to comply with Building regulations.
  - Drawings are not provided.

## **8.3. Planning Authority Response**

- No further comment.

## **9.0 Assessment**

### **9.1. Issues**

9.1.1. This appeal relates to a proposal for a two storey house with attic accommodation in an infill development in the mature inner suburbs of Limerick City. The site is one of 13 sites – 12 of which have been developed. From my inspection and review of the

file, the key issues centre on residential amenity by reason of visual and overbearing impact and loss of privacy.

- 9.1.2. The appellant has also raised concerns about the deviance of the constructed houses such as no.3 from the original permission. I note there are alterations such as raising of roof height by c.300mm and enlargement of the projecting gable roof and modification of a pair of rooflights from horizontal to vertical alignment and while I note the planning authority correspondence considered these minimal I do not consider this to be entirely relevant as the subject proposal is for a fresh application and accordingly the proposed design is assessed on its merits.

## **9.2. Residential Amenity – visual/overbearing impact**

- 9.2.1. The appellant lives in no.38 Revington Park which is one of the original houses which has its rear garden developed as part of a row of houses described as Revington Gardens. No.3 Revington Gardens has been constructed to the rear of no. 38 and is similar to that proposed. It is adjacent to the subject site which relates to no. 4 Revington Gardens directly to the rear of no. 37. The proposed house is not therefore directly opposing to the appellant's house.
- 9.2.2. The appellant makes the case the proposal is considerably bulkier by virtue of the enlarged gabled projection to the rear. The widening of this as compared to the initial permitted design has raised the ridge with an associated bulk.
- 9.2.3. I accept that the gable is larger than previously permitted and while it is set back 11.2m from the rear boundary I would question the justification for the scale of the rear portion of the roof. I say this having regard to the north-south orientation of the proposed house and potential overshadowing of its rear garden as well as the wider visual impact. I note from the drawings – that the roof over the gable projection to the rear is a void space. A hiping of the roof would considerably reduce the bulk of the roof as well as the prominence of the gable without unduly impacting on internal space. I also note that the roof pitch of the projection is steeper than that of the main roof and if the angle was reduced over this section of the roof, the ridge could be lowered further below the main ridge (more than the 130mm as stated in the applicant's response). This would further enhance access to the light in proposed

and adjacent properties, although this would have marginal light benefits and would restrict head height for attic storage.

- 9.2.4. On balance, I consider the hipping of the projecting roof to the rear would provide an improved standard of residential amenity for existing and future occupants and would also address some of the concerns of the appellant in this regard.

### **9.3. Residential Amenity - Overlooking**

- 9.3.1. The appellant is concerned about the potential for overlooking of the rear of his property from the proposed dwelling. There is particular concern about the attic level windows and potential for removal of opaque glazing. The first floor west facing bedroom would also provide oblique views over the garden of no. 38 but would be 12.7m from the rear boundary to which it is perpendicularly aligned. It is also oriented onto the side gable of no. 3 and would have limited oblique views over the rear garden of no.3. A more usual configuration would be to have rear facing bedroom windows for better light and privacy however in this case I note that that all the houses in this development have been designed with this layout – i.e. no upper level rear facing window in the projected rear extension which maximises protection of a high level of privacy of the established houses (including appellant's) to the north.
- 9.3.2. Having regard to the proposed garden depth in the order of 11.2m, the depth of the existing gardens to the north at distances will in excess of 11m, I do not consider overlooking can reasonably be a reason to refuse permission or modify design. The inclusion of opaque glazing as proposed and agreed by the applicant further safeguards the amenities of existing residents. A condition restricting further extension will further serve to strictly control extensions and modifications in the interest of protecting residential amenities in the area.
- 9.3.3. On balance, I do not consider the proposed development would, subject to condition, be unduly intrusive or injurious to residential amenity of adjacent properties.

### **9.4. Appropriate Assessment**

- 9.4.1. 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.

## 10.0 Recommendation

10.1. I recommend that planning permission for the proposed development be granted based on the following reasons and considerations, as set out below.

## 11.0 Reasons and Considerations

Having regard to the design and massing of the proposed development , the pattern of development in the area and the provisions of the Limerick City Development Plan 2010- 2016 as varied, it is considered that, subject to compliance with the conditions set out below, the proposed development would integrate in a satisfactory manner with the existing built development in the area and would not seriously injure the residential amenity of adjacent properties. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area

## 12.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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 development shall be modified as follows:

(a) The proposed gable projection in the rear elevation shall have a full hipped roof.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

3. Details including samples of the materials, colours and textures of all the external finishes to the proposed building, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** In the interest of visual amenity.

4. Water supply and drainage arrangements, including the attenuation and 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.

5. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise and dust management measures and off-site disposal of construction/demolition waste.

**Reason:** In the interest of traffic safety and to protect the amenities of the area.

6. The Velux roof lights in the rear elevation and the western facing first floor window shall be of obscure glazing.

**Reason :** In the interest of residential amenity.

7. The in-curtilage car parking space(s) serving the residential unit shall be provided with electric connection(s) to the exterior of the house to allow for the provision of future electric vehicle charging point(s). Details of how it is proposed to comply with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

**Reason:** in the interest of sustainable transportation.

8. 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:** To protect the amenities of the area.

9. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001 and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

**Reason:** In the interest of the amenities of the area.

10. The footpath in front of the proposed vehicular entrances shall be dished at the road junction(s) in accordance with the requirements of the planning authority and at the developer's own expense.

**Reason:** In the interest of traffic safety, orderly development and to ensure that adequate off-street parking provision is available to serve the proposed development.

11. 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.

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Suzanne Kehely  
Senior Planning Inspector  
26<sup>th</sup> January 2022