



An  
Bord  
Pleanála

# Inspector's Report

## ABP-312064-21

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<b>Development</b>	House and all associated site works
<b>Location</b>	Caragh Avenue, Caherdavin Park, Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	211075
<b>Applicant(s)</b>	Mark Haskett
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran & Miriam Canty
<b>Date of Site Inspection</b>	25 <sup>th</sup> March 2022
<b>Inspector</b>	Liam Bowe

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## 1.0 Site Location and Description

- 1.1. The appeal site is located on a corner site within a residential street on Caragh Avenue, Caherdavin Park to the north of the Ennis Road in the western part of Limerick City. Caherdavin Park is a residential area of two-storey semi-detached houses. The site comprises part of a side and rear garden of an existing semi-detached house located on a corner site. The site addresses Caragh Avenue to the south whilst the existing semi-detached house addresses the street to the east (Derravarragh Road).
- 1.2. There are 1.8m high block walls on the northern and western site boundaries to the rear of site / existing house. There is a low wall on the inter-site boundary to the front of the appellant's house and the site and a low fence along the southern boundary. There is a footpath, utility pole and street signage immediately to the south of the site but, otherwise, the site is open from the southern side. On the day of my site inspection, works were being carried out to the house on the corner to the east of the appeal site which comprises a two-storey side extension.

## 2.0 Proposed Development

- 2.1. The site of the proposed development has a stated area of 0.028 hectares. The proposed development would comprise the construction of a house, boundary treatments and connection to public services all in the rear / side garden of an existing house. The proposed house would be two storeys with accommodation provided in the roof space at second floor level and a maximum height of 8.85m. The house is proposed as a three-bedroom unit and would have a stated gross floor area of 170.3m<sup>2</sup>. The house would be set back 8.9m from the footpath edge to the south. Vehicular and pedestrian access to the house is proposed to be provided at the southern side of the appeal site. Private open space is proposed to the rear / north of the house.

## **3.0 Planning Authority Decision**

### **3.1. Request for Further Information**

Prior to its notification of decision, the Planning Authority issued a further information request on 17<sup>th</sup> July 2021 requiring details in relation to surface water disposal, boundary treatment, private open space, letter of consent from ESB, and a request to address the third party observation.

In response, the first party submitted a revised site layout plan demonstrating surface water disposal and private open space, revised drawings demonstrating the boundary treatments, confirmation of verbal agreement with ESB to relocate a pole, and a comprehensive response to the third party observation.

### **3.2. Decision**

By order dated 2<sup>nd</sup> November 2021 Limerick City and County Council issued a notification of decision to Grant Permission for the proposed development subject to 14 no. standard conditions. The Conditions include, inter alia, the following:

- Condition No.6: Requiring details of surface water disposal.
- Condition No.8: Front wall to match neighbouring property to the west.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

The initial report of the Planning Officer outlines the relevant planning policy for infill sites, notes the objections received and raises concerns regarding the disposal of surface water, the location of an ESB pole, traffic management issues, an existing ESB power line, loss of light and overshadowing, subsidence, loss of privacy and issues raised in the third party submission. Notwithstanding this, further information was recommended.

Appropriate Assessment Screening was carried out and concluded that there was no likely potential for significant effects to any Natura 2000 site.

A second report, subsequent to the submission of a response to further information, recommends a grant of permission consistent with the notification of decision which issued.

### 3.3.2. **Other Technical Reports**

Roads Section – No objection. Conditions recommended in relation to front boundary treatment and surface water disposal.

### 3.3.3. **Prescribed Bodies**

Irish Water – No objection. Conditions recommended.

## 3.4. **Third Party Observations**

Submissions on the proposal were received from Caherdavin Residents Association and Kieran & Miriam Canty. The submissions reflect the principal issues raised in this appeal and these include concerns regarding incorrect address, traffic management issues, existing ESB power line, loss of light and overshadowing, subsidence and loss of privacy.

## 4.0 **Planning History**

### 4.1. **Appeal site:**

**P.A. Ref. No. 17/382:** Permission granted for the demolition of an existing single storey extension at the side of the dwelling and to construct a new single storey extension to the side and rear of the dwelling.

### 4.2. **Adjacent site:**

**P.A. Ref. No. 21/1074:** Permission granted for the construction of a two-storey extension to the side of the existing dwelling.

## 5.0 **Policy Context**

### 5.1. **Limerick City Development Plan 2010-2016 (as extended)**

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

- 5.1.2. Paragraph 16.29 relates to infill housing and states that 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. **Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009)**

### 5.9 (d) (i) Infill residential development

‘In residential areas whose character is established by their density or architectural form, a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.’

‘The design approach should be based on a recognition of the need to protect the amenities of directly adjoining neighbours and the general character of the area and its amenities, i.e. views, architectural quality, civic design etc.’

## 5.3. **Urban Design Manual – A Best Practice Guide (2009)**

### 12. Detailed Design

- The materials and external design make a positive contribution to the locality.

- Design of the buildings and public space will facilitate easy and regular maintenance.
- Care has been taken over the siting of flues, vents and bin stores.

#### **5.4. Natural Heritage Designations**

The site is not located within any European site. The closest Natura 2000 sites are the Lower River Shannon SAC (Site code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site code: 004077) both located approximately 1.5km to the south.

#### **5.5. EIA Screening**

Having regard to the nature and scale of the proposed development and the separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the carrying out of an EIA is not required in this case.

### **6.0 The Appeal**

#### **6.1. Grounds of Appeal**

6.1.1. The grounds of appeal are submitted by Kieran & Miriam Canty, 57 Caragh Avenue, Caherdavin Park, Limerick, residents of the adjoining house to the west of the appeal site. The main points made can be summarised as follows:

- Contend that the house is proposed, and permitted, 1m forward of the existing building line.
- Highlight that no confirmation for relocating an existing electricity pole was made available to the public.
- Contend that the proposed stone façade is not in keeping with the existing house on the street.



- Concerned about overshadowing on their kitchen area and the elimination of direct sunlight to their rear garden and that Drawing No. 21.02.440/40 was not available for viewing on Limerick City & County Council's Eplan.

A shadow calculator sketch is included with the appeal which indicates overshadowing of the appellants' rear garden.

## 6.2. Applicant Response

6.2.1. The main issues raised in the First Party response to the grounds of appeal can be summarised as follows:

- States that the proposed house is only 1m forward of the building line of No.57 Caragh Avenue and is 4m behind the building line of the house to the east of the appeal site.
- Enclosed a letter from ESB confirming that the electricity pole/line can be altered depending on the position of the building.
- Contends that the 4 square metres of stone finish will match the finishes on the adjacent house at No.5 Derravarragh Road.
- Confirm that Drawing No. 21.02.440/40 is available to view on-line on Limerick City & County Council website and that this drawing is an accurate reflection of the windows, door opes and velux rooflight on No.57 Caragh Avenue.
- Submits a Shadow Study Analysis demonstrating possible overshadowing of the neighbouring property to the west and outlining the contended inaccuracy of the shadow calculator submitted by the appellants.

## 6.3. Planning Authority Response

The Planning Authority has not responded to the grounds of the appeal.

## 6.4. Further Responses

6.4.1. A further response was made by Kieran & Miriam Canty, 57 Caragh Avenue, Caherdavin Park, Limerick. The main points made can be summarised as follows:

- Reiterates the contention the proposed house will be 1m forward of the established building line and contends that the house at No.5 Derravarragh Road should not be used to judge the location of the building line on Caragh Avenue.
- Similarly, contends that the finishes on the façade of a new house on Caragh Avenue should be in keeping with the design of houses on Caragh Avenue.
- Claims that Drawing No. 21.02.440/40 remains unavailable to view on-line on Limerick City & County Council website but acknowledges the copy of the drawing submitted by the First Party in response to the appeal.

## 7.0 Assessment

I consider the main issues in determining this appeal are as follows:

- Principle of development
- Design
- Overshadowing
- Other issues
- Appropriate Assessment

### 7.1. Principle of development

- 7.1.1. The site is in an area zoned 'Residential - ZO2(A)' under the Limerick City Development Plan 2010-2016 (as extended). Residential use is permitted in principle under this land use zoning. The purpose of this zoning is to provide for residential development and associated uses.
- 7.1.2. The site of the proposed development is part of the rear and side garden of corner house within an established residential area in Limerick City. As a result of this, the site is restricted in area and is additionally constrained by the nature of development in the immediate vicinity as would be considered normal for an infill site of this nature. However, I consider that the development of this site would enhance the general street frontage along this section of Caragh Avenue and therefore, having regard to the above, I consider that the principle of the development of a residential unit is acceptable at this location.

## 7.2. Design

- 7.2.1. The proposed development seeks to accommodate a three bedroom, two-storey house with accommodation provided in the roof space at second floor level, on a site stated to be 0.028m<sup>2</sup> in area. The proposed house would have an area of 170.3m<sup>2</sup> with floor areas of 69.5m<sup>2</sup>, 66.8m<sup>2</sup> and 34m<sup>2</sup> at ground, first floor and second floor levels, respectively. I consider the overall scale and height of the proposed house would sit comfortably within this streetscape. Similarly, I consider the design of the fenestration and proposed finishes to be compatible with its suburban context. The proposed area of private open space is 69m<sup>2</sup>, comprising 49m<sup>2</sup> to the rear and 20m<sup>2</sup> to the side of the dwelling. The private open space remaining to the rear of the house on the corner site to the east is approximately 40m<sup>2</sup>, which is in accordance with Development Plan standards
- 7.2.2. The appellants contend that the stone finishes at the corner and at the entrance door of the proposed house would render it out of character with the other houses on Caragh Avenue. The First Party argues that the 4 square metres of stone finish will match the finishes on the adjacent house at No.5 Derravarragh Road. In this regard, the Limerick City Development Plan is clear stating that proposals for infill houses 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”. However, the Sustainable Residential Development in Urban Areas – Guidelines for Planning Authorities (2009) state that a balance has to be struck between the reasonable protection of the amenities and privacy of adjoining dwellings, the protection of established character and the need to provide residential infill.
- 7.2.3. This residential area has the appearance of a 1970’s housing development and, over the intervening years, there has been an introduction of new materials throughout the street in the form of new windows, varying garage door types, porches with some brick treatment and varying front boundary treatments. I, therefore, consider that the introduction of a contemporary house with a small element of stone finish on the front façade of the proposed infill house would make a positive contribution to the locality and, on this basis, would not have such an impact on the streetscape at this location as to warrant a refusal of permission.

- 7.2.4. The appellants also express concerns that the proposed house will be 1m forward of the established building line on Caragh Avenue. In response to this, the First Party has stated that the proposed house is only 1m forward of the building line of 57 Caragh Avenue and is 4m behind the building line of the house immediately to the east of the appeal site at No.5 Derravarragh Road. I note the policy in the Development Plan where it is stated that a proposal for infill housing should 'pay attention' to the established building line. I am satisfied that the proposal to step forward 1m from No.57 Caragh Avenue is acceptable in the context of forming a stepping effect to the building line of No.5 Derravarragh Road and the establishment of a strong corner on this street.
- 7.2.5. On the basis of the above, I consider that the proposed house would be an acceptable form of infill housing within this residential streetscape, and I am satisfied that the proposed house has been specifically designed to address both the constraints of the site and the standards set out in the Limerick City Development Plan.

### 7.3. **Overshadowing**

- 7.3.1. The challenge of attempting to design and develop a house on a constrained urban site, such as this appeal site, is to avoid adverse consequences for the amenities of residents occupying the houses that adjoin the plot. In this case, the house would be separated from the side of the appellants' ground floor extension by 2.85m and by 5.65m between the opposing gable ends.
- 7.3.2. The appellants contend that the proposed development will result in overshadowing on their kitchen area and the elimination of direct sunlight to their rear garden. In support of this contention, they submitted a sketch with the appeal demonstrating the impact of the predicted shadow from the proposed house on their rear garden. In response to this, the First Party submitted a Shadow Study Analysis demonstrating possible overshadowing of this neighbouring property to the west and outlining inaccuracies in the shadow calculator submitted by the appellants.
- 7.3.3. On the day of my site inspection and as demonstrated by Drawing No. 21.02.440/04 submitted in response to the appeal on 12<sup>th</sup> December 2021, I note that the existing party wall adjacent to the appellants' side extension is almost at the same height as

the ground floor window within the appellants' side extension. There is a large window in the front elevation of the side extension, a velux roof light and two smaller windows to the rear of the side extension. Consequently, I consider that, even though the proposed house is higher than this party wall, there is limited potential for any significant loss of direct sunlight that could occur to the windows within the appellant's extension as a result of the proposed development.

7.3.4. In relation to the impact on the appellants' rear garden, I have examined the submissions of both parties and I consider that Shadow Study Analysis submitted by the First Party to be a more accurate assessment of the possible impact of overshadowing on the rear garden of No.57 Caragh Avenue. As standard, it is recommended that at least half of the rear garden of a house should receive two hours sunlight on the 21st of March.<sup>1</sup> In this regard, I consider that the rear garden of No.57 Caragh Avenue will not be impacted in any significant way by overshadowing from the proposed development after 12 noon each day. Consequently, the occupiers of this dwelling will continue to enjoy direct sunlight to their rear garden in the same manner as they presently do. I refer the Board to the aerial photograph attached to this planning report demonstrating existing levels of sunlight at approximately 1300 hours on the day that the photograph was taken.<sup>2</sup> This clearly demonstrates that no overshadowing will occur to the rear garden of No.57 Caragh Avenue after this time of day and, consequently, the occupiers of the house will continue to be able to enjoy their private amenity space post any development on the adjacent site and well above the minimum guidance of 2 hours direct sunlight.

7.3.5. In conclusion, I consider that, given the aspects of both the appellant's house and associated rear garden, to the west and north west of the appeal site, that there is limited potential for additional loss of sunlight / daylight to occur to this property. In particular, I consider that there is limited potential for additional loss of sunlight / daylight to accrue to the appellants' rear garden.

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<sup>1</sup> P.18, Site Layout Planning for Daylight and Sunlight – a guide to good practice, P. Littlefair

<sup>2</sup> <https://www.google.ie/maps/@52.6731618,-8.6630805,64m/data=!3m1!1e3>

## 7.4. Other Issues

### 7.4.1. ESB pole

The appellants contended that no confirmation for relocating an existing electricity pole was made available to the public. The First Party enclosed a letter from the ESB in response to the appeal confirming that the electricity pole/line can be altered depending on the position of the building.

### 7.4.2. Availability of Drawing No. 21.02.440/40

The appellants stated that Drawing No. 21.02.440/40 was not available for viewing on Limerick City & County Council's Eplan system. In response to this, the First Party confirmed that this drawing available to view on-line on Limerick City & County Council website and submitted a copy of the drawing to the Board on 12<sup>th</sup> December 2021. The appellants acknowledged this but still claimed that this drawing remained unavailable to view on-line on Limerick City & County Council website. I have checked Limerick City & County Council website and I confirm that the drawing is available to view on-line. I am also satisfied that the appellants have had the opportunity to view this drawing as a result of the First Party making a hard copy available during the course of this appeal.

## 7.5. Appropriate Assessment

- 7.5.1. The closest European sites are Lower River Shannon SAC (Site code: 002165) and the River Shannon and River Fergus Estuaries SPA (Site code: 004077) both located approximately 1.5km to the south. There is no known hydrological link to the river or the SAC / SPA. Given the small scale of the development, the distances involved, and the absence of any indication of a hydrological link to the European sites, it is considered that Appropriate Assessment issues can be ruled out at this stage.

## 8.0 Recommendation

I recommend that planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

Having regard to the design, scale and layout of the proposed development, its relationship to surrounding properties, to the residential zoning objective for the area and the pattern of development in the area, it is considered that subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety and convenience. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 8<sup>th</sup> day of October 2021, 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.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>Details of the materials, colours and textures of all the external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>Prior to commencement of development, the developer shall enter into water and/or wastewater connection agreement(s) with Irish Water.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>The footpath shall be dished at road junction in accordance with the requirements of the planning authority.</p>

	<b>Reason:</b> In the interest of pedestrian safety.
5.	<p>The developer shall submit for the written agreement of the Planning Authority details of the height and finishes of the boundary walls on the site, prior to commencement of development.</p> <p><b>Reason:</b> In the interest of residential amenity.</p>
6.	<p>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.</p> <p><b>Reason:</b> In the interest of public health.</p>
7.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>
8.	<p>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.</p>



	<p><b>Reason:</b> 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.</p>
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Liam Bowe  
Planning Inspector

25<sup>th</sup> April 2022