



An
Bord
Pleanála

Inspector's Report ABP-313813-22

Development	Construct porch to the front of the property and extension to side and back of property. Remove front boundary wall and provide off-street parking at the front of the house with associated works.
Location	46 Marian Avenue, Ennis, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	2283
Applicant(s)	Sean Lyons
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party v Refusal
Appellant(s)	Sean Lyons
Observers	James + Marian Quigley
Date of Site Inspection	30 th December, 2022
Inspector	Suzanne Kehely

1.0 Site Location and Description

- 1.1. The site is that of an end of terrace domestic dwelling in an established housing development from c 1950s in Ennis town – just to the north of the town centre. The houses typically have narrow deep plots less than 5m in width and around 40m in depth. The subject site ranges in width from just over 8m at the front boundary to 10m at the rear boundary where it fronts onto the lane shared with Steels Terrace.
- 1.2. The road fronting the house is narrowly aligned with a carriageway of less than 4.5m in width and footpaths of c 1.3m. Most houses retain the pedestrian gate and cars are parked along the eastern side of the road. There is communal parking area to the south on the western side of the road. Some houses have off-street parking off the lane to the rear.

2.0 Proposed Development

- 2.1. Permission is sought to extend the dwelling to the front, side and rear in addition to providing off-street car parking by widening the pedestrian gate. Key elements are:
 - The two storey extension to the rear extends 7.2m in width and to a depth of 4.66m beyond the rear building line and provides a bedroom suite while retaining two bedrooms to the front and a bathroom at first floor level.
 - The extended ground floor accommodation provides an office off the hall and a utility and toilet to the side and off the enlarged kitchen/dining/living area to the rear. A small porch of 1.3 x 2.4m is also proposed to the front.
 - Design, materials and finishes are presented as being consistent with that of the existing style of house.
 - The extension to the rear incorporates a standard hipped roof with a ridge height of 7.768m which is just below the existing ridge height.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The planning authority decided to refuse permission by order dated 24th May 2022 for the stated reason:

- It is considered that the proposed development would result in loss of daylight and sunlight and result in overshadowing of the rear garden of 48 Marian Avenue. It is considered that this loss of daylight and sunlight would adversely affect the residential amenities of this adjoining property.

This followed a request for further information by order dated 29th March 2022 requiring an overshadowing analysis/sun study of the development proposed and its impact on no.48.

3.2. Planning Authority Reports

3.2.1. Planning Report:

- In the planning report reference is made to the planning history along the road which includes permission for off street parking and domestic extensions of various sizes and heights. One third party objection regarding overshadowing , scale and services is noted from the adjacent neighbour. It is considered that the proposed scale and nature is not in keeping and would have an overbearing impact on no.48 .
- The Daylight Analysis and Overshadowing Report prepared by H3D is noted in respect of its analysis on adjacent gardens and the level of overshadowing on 21st March, 21st June, 21st September and 21st December. The loss of light to the rear windows of no 48 between the hours of 8am and 12pm from March to December is to significant and would materially affect the residential amenity of this property.
- The site is not in a flood risk area or otherwise sensitively sited. No AA or EIA issues arise.

3.2.2. Ennis Municipal Engineer:

- Welcomes the provision of off-street parking.

3.3. Prescribed Bodies

Irish water: No objection

3.4. Third Party Observations

One Third Party submission was made to the planning authority as noted above.

4.0 Planning History

P19/582, P18/138, P14/173 and P21/165 all refers to domestic works in the area and details are in pouch at back of file.

5.0 Policy Context

Clare County Development Plan 2023-2029 (effective 20th April 2023)

The site is zoned – Existing Residential in Volume 3a - Ennis Municipal District

6.0 EIA Screening

- 6.1. Having regard to the nature and scale of the proposed development in serviced lands and the absence of any connectivity to any sensitive location, there is no likelihood of any 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.

7.0 The Appeal

- 7.1. West MW for the applicant has appealed the decision to refuse permission on the following grounds:

- Modern Upgrade: It is explained that the applicant has owned the property since 2010 and seek to upgrade to current building regulation to provide a 3 modern bedroom house consistent with current living standards.

- Alignment: the orientation of the houses on this side of the road receive limited sunlight to the rear.
- Precedence of rear extension in the recent past P13/21040, P17/175, P19/95 in environs of Ennis town.
- Modified Daylight and Sunlight analysis taking account of the shed to the rear of no.48
- Insufficient account taken of vertical sky component.
- Visually acceptable on this quiet location at the back of the estate if painted and removed some of the spiking. It is obscured by the porch and planting and views along the road.
- Porch is limited in size and does not pose an issue.
- Off-street Parking: Precedent for this type of parking such as in the cases - register references Ref P18/138 and P21/1019 and it is considered to have a positive effect.

7.2. Observations

7.2.1. Hassett Leyden and Associates Architects and civil engineers have submitted an observation on behalf of the neighbours objecting to permission on grounds of

- Scale of two storey extension out of character with modest scaled terraced and semi-detached houses,
- Overshadowing of the rear curtilage of no.48 and loss of light in the kitchen/living area,
- Overbearing impact of a sheer blank wall
- Insufficient details on services , e.g. it is queried if this is feasible. Concerns about overflow of roof and back flow to no.48
- In overall terms it would have an adverse effect on the enjoyment of no. 48

7.3. PA Response

No further comment

8.0 Assessment

- 8.1. This case relates to a proposal for a domestic extension and vehicular access in place of the pedestrian gate to the front. While fragmentation of the streetscape and loss of on street parking are usually contrary to good practice, I consider in this case that in view of the restricted provision for car parking on this side of the road as compared to the communal parking area on the other side further along the road and the road alignment that the widening of the entrance is acceptable and in this regard I note the positive opinion of the Ennis Municipal Engineer. There is essentially no dispute on this matter and I see no grounds for refusing permission for this element.
- 8.2. The dispute in this case centres on the scale and extent of the extension to the dwelling. The existing house is modest at c. 73 sq.m. and the need for an extension is understandable. However in this case the proposed extension of 70.78sq.m constitutes an extension of a considerable magnitude and in the context of a terraced site is potentially a highly dominant feature. I note the site is wider than average and I consider the extension to the side to be without issue and generally acceptable subject to materials and finished. Similarly the set back from the road and proposed modest porch extension is easily assimilated into the streetscape. Similarly there is no dispute on these element and I see no grounds for refusing to this part of the proposal.
- 8.3. The matter of concern to the planning authority and neighbouring resident to the north centres on the scale of the two storey extension to the rear and impact by reason overshadowing and overbearing aspect.
- 8.4. The proposed design includes a 2 storey hipped roof extension that would project 4.66m to the rear of the dwelling and with only a marginal set back from the southern

side boundary of the adjoining dwelling (no.48). It would extend to a width of 7.27m which is wider than the dwelling.

- 8.5. No.48 is the adjoining mid terrace dwelling and presently has a fairly unobstructed sunlight and daylight into the southern ground floor window to the rear in the early part of the day. I note the outhouse shed would have some impact but it is minimal I note this is part of the original layout and is established and reinforces the need to protect the light into the unobstructed window along the boundary as can be seen in the photographs. While I note the comparative quantum of daylight levels taking account of the shed and adherence to vertical sky component I consider the scale, height and depth of the proposed extension would have considerably overbearing impact by virtue of its proximity and orientation relative to the ground floor rear window into habitable space. It would also block significant levels of southern sunlight in the context of the enjoyment of that property. I do not consider the urban environment to be of a density and pattern that warrants such an impact to a domestic dwelling in a residentially zoned area.
- 8.6. I note the end of terrace nature with a side passage and also the site configuration which fans out towards the rear allows for extension to the side. The proposed layout indicates a side passage of c.800mm to the front which widens to 1389mm at the proposed building line. There is some scope to further widen in a southern extension and I note no windows are proposed in the southern elevation.
- 8.7. I also note the proposed layout is to provide an extensive bedroom suite (bathroom and dressing room occupying almost the entire first floor extension at around 35sq.m. which is an exceptionally large bedroom by any of the current residential design standards for planning authorities.
- 8.8. In applying some proportionality to the proposed development and its impacts in the terraced context I consider it reasonable to modify the first floor extension so as to reduce the impacts on the adjoining mid terraced dwelling. I consider the reduction in the depth of the extension to 4m and a stepping back of the first floor from the northern boundary by at least 1.8 m in total would considerably mitigate the overbearing impact. This would have the benefit of allowing a bathroom window in

the original rear wall - thereby omitting the reliance on a rooflight if so desired. There is also some scope to extend southwards to offset some of the setback. This would still provide for generous bedroom suite and accommodation in the extension.

8.9. I do not consider the issue of services is planning issue in this case where there is an existing property. Impact on neighbouring property is a civil matter.

8.10. **Appropriate Assessment**

Having regard to the nature, scale, and location of the proposed development, no Appropriate Assessment issues arise as the development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 **Recommendation**

9.1. I recommend that permission is granted based on the following reasons and considerations.

10.0 **Reasons and Considerations**

Having regard to the design and massing of the proposed development , the pattern of development in the area and the provisions for Ennis Municipal District as part of the Clare County Development Plan 2023-2029 , 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.

11.0 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 extension to the rear shall be reduced in depth to 4m from the original rear wall and setback from the boundary with no. 48 by a distance of 1.8m. In the modified design the roof shall be pitched to harmonise with the existing pitch and ridge kept to a minimum height.
 - (b) A bathroom window (obscured) may be provided in the revised rear elevation.

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. The proposed vehicular entrance shall be amended as follows:
 - a) The vehicular entrance shall be a maximum width of three metres.
 - b) The remaining boundary shall that which originally delineated the front boundary
 - c) Other than the area for the proposed parking space, the front garden shall be maintained in soft landscaping.
 - d) Entrance gates, if erected, shall be designed so as not to open outwards.

Revised plans with the necessary alterations shown thereon shall be submitted to the planning authority for written agreement prior to commencement of development.

Reason: In the interests of visual amenities of the residential area

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

Reason: In the interest of visual amenity.

5. 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.

6. The in-curtilage car parking space serving the dwelling shall be provided with electric connection to the exterior of the house to allow for the provision of future electric vehicle charging point . 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.

7. 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.

8. 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.

9. The footpath in front of the proposed vehicular entrance 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.

10. The developer shall pay to the planning authority a financial contribution as a special contribution under section 48(2)(c) of the Planning and Development Act, 2000, in respect of repair works within the public domain effected entrance works. The amount of the contribution 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 for determination. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be updated at the time of payment in accordance with changes in the Wholesale Price Index – Building and Construction (Capital Goods) published by the Central Statistics Office.

Reason: It is considered reasonable that the developer should contribute towards the specific exceptional costs which are incurred by the planning authority which are not covered in the Development Contribution Scheme and which will benefit the proposed development.

Suzanne Kehely
Senior Planning Inspector

24th August 2023