



An
Bord
Pleanála

Inspector's Report ABP315327-22

Development	Construction of rear extensions to existing dwelling including internal alterations, elevational changes and ancillary site works.
Location	1 Richmond Villas, Ashbourne Avenue/Ullard, South Circular Road Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22/733
Applicant(s)	Kate Fitzpatrick and Carl Bourke
Type of Application	Planning Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Roisin Bennett
Observer(s)	None
Date of Site Inspection	13 th April 2023
Inspector	Ann Bogan

1.0 Site Location and Description

- 1.1. No. 1 Richmond Villas is approximately 1.7kms from Limerick city centre in a mature residential suburb adjacent to South Circular Road. The housing in the area comprises a mixture of detached, semi-detached and terraced houses. No. 1 is part of a pair of semi-detached houses, which have front gardens and pedestrian access on to a narrow road elevated above the main Ashbourne Road.
- 1.2. No. 1 has a vehicular access from Ullard, which runs to the north-east of No 2 Richmond Villas. This entrance gives access to No 1's rear garden which extends to the rear of both No 1 and No 2 Richmond Villas. Previous extensions have taken in much of the rear garden immediately to the rear of No 1.
- 1.3. A detached two storey house, with single storey extension to the front (named Woodland) is located next door (the appellant), south-east of No 1 Richmond Villas, The main part of the appellant's house is approximately 5.5 metres from the side elevation of No 1. There is also a separate single storey structure (originally a garage) on the appellant's site, directly abutting the side elevation of No 1, with its front wall in line with the front elevation of No 1.

2.0 Proposed Development

- 2.1. The proposed development consists of:
 - a 32sq m rear extension at attic level of the house to create a new second floor, housing additional bedrooms;
 - a new window in the side gable at first floor level to serve an existing bathroom, which is currently lit by a rooflight facing to the rear of the house, (which would be removed to accommodate the extension);
 - a 5sq m single-story extension at ground floor level to create a utility room.
- 2.2. The Planning Authority sought further information on 18th August 2022 in respect of the design of the extension, floor to ceiling height of the attic area and a method statement for removal of the chimney, demolition, site drainage and reconstruction of any party wall.

- 2.3. The response on 27th October 2022 justified the design of the extension, pointing out that no changes to the roofline or front elevation are proposed, and citing examples of similar extensions in the area which had been granted planning permission. Drawings submitted illustrated that well in excess of 50% of the proposed second floor rooms would have a floor to ceiling height of 2.4m. The agent indicated that neither of the chimneys were to be removed or any works required to the existing drainage. A method statement for proposed demolition and construction of the party wall to provide the utility room was also submitted.
- 2.4. A further unsolicited FI response was received on 10th November 2022 containing revised drawings showing changes to the internal layout, relocating a family bathroom from the second to the first floor, and consequent reduction the size of the first floor rear bedroom and increase in size of the second floor landing.

3.0 **Planning Authority Decision**

3.1. **Decision**

Decision to Grant Permission issued on the 22nd November 2022, subject to 9 conditions.

Condition No 2 required that the new first floor side window shall have opaque/frosted glass only, to protect residential amenity.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

Planning Report 27th July 2022: The Planning Officer noted the 'existing residential' zoning of the area, but raised concerns with the design of the upper floor extension. She noted that overlooking would occur of the adjoining property. FI was requested as noted above.

Planning Report 22nd November 2022: On receipt of Responses to Further Information the Planning Officer concluded that the design was acceptable Her report stated: '*the proposed development is acceptable in terms of sustainable*

design and the development of the local area and is in line with the relevant S28 guidelines and the policies and objectives of the Limerick Development Plan, 2022-2028. The Planning Officer's Report reflects the decision of the Planning Authority.

3.2.2. Other Technical Reports

Environment Section: requested a refurbishment demolition survey and a condition requiring a construction waste management plan.

3.2.3. Prescribed bodies

Irish Water: requested standard conditions

3.2.4. Third Party Observations

A third-party observation was submitted by the adjacent neighbour (the appellant):

- Objected to the bathroom window on the side elevation on the basis of a Right of Light issue and that it would compromise their property
- Rainwater drainage from the extension should be taken back to the applicant's property
- A method statement should be provided for removal of chimney and for the construction of the party wall for the proposed utility room.

4.0 Planning History

- Subject site
06/770459: Permission for a rear extension
05/770485: Permission for a two-storey extension in place of an existing single storey extension and for a further single-storey rear extension
05/770091: permission for a two-storey rear extension
- 11/770485 Permission for a two-storey rear extension to 2 Richmond Villas

- 05/770218 Permission for retention of conversion of garage to utility room and extension of bathroom – Woodland - adjacent House (appellant)

5.0 Policy and Context

5.1. Development Plan

The relevant development Plan is the Limerick City and County Development Plan 2022-2028. Land-use zoning objective: Existing Residential - to provide for residential development, protect and improve residential development.

The house is not on the Record of Protected Structures or located in an Architectural Conservation Area.

Chapter 4 Housing, contains objectives to protect residential amenity and support upgrading of existing housing:

Objective HO O3 Protection of Existing Residential Amenity: It is an objective of the Council to ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable new development.

Objective HO O4 Re-use of Existing Buildings It is an objective of the Council to encourage redevelopment and reuse, including energy retrofitting, of existing housing stock and conversion of other suitable buildings to sustainable housing accommodation.

Chapter 11 Development Management Standards, contains guidance on design of extensions to ensure protection of residential amenity and good quality design:

11.4.4.1.2 'Rear/Side Extensions Ground floor rear/side extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. First floor rear/side extensions will be considered on their merits and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on

surrounding residential or visual amenities. In determining applications for first floor extensions, the following will be considered:

- Degree of overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries;
- Size and usability of the remaining rear private open space;
- Degree of setback from mutual side boundaries. No part of the extension shall encroach or overhang adjoining third party properties’.

11.4.4.1.3 ‘Alterations at Roof/Attic Level Roof alterations/expansions to main roof profiles (changing the hip-end roof of a semi-detached house to a gable/‘A’ frame end or ‘half-hip’ for example) and additional dormer windows will be assessed having regard to the following:

The character and size of the structure, its position on the streetscape and proximity to adjacent structures;

- Established streetscape character and roof profiles;
- Dormer extensions to roofs, i.e. to the front, side and rear, will be considered with regard to impacts on existing character and form and the privacy of adjacent properties’.

5.2. Natural Heritage Designations

The development site is within 1 km of the Lower Shannon SAC, but due to the nature and small scale of the development proposed it is considered it would not have a significant effect on conservation status of the SAC and therefore an Appropriate Assessment is not necessary.

5.3. EIA Screening

Having regard to the nature of the development, comprising of a house extension in a fully serviced urban area, it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for an environmental impact assessment can, therefore, be excluded by way of preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third-party appeal has been lodged by the owner of the adjacent house to the south-east ('Woodland', Ashbourne Avenue):

- The appeal relates solely to a proposed bathroom window in the existing side/south-east elevation which overlooks their property. The appellant is concerned that the construction of the window would impact on their privacy. They also raise a concern that it will allow the applicants to claim a right to light, which they argue would inhibit the appellant developing their own property.

6.2. Applicant Response

The response submitted by the applicant's agent can be summarised as follows:

- The window is not on a party wall, it is in their gable wall and is within their own property boundary;
- Condition No 2 attached to the local authority decision to grant permission requires obscured glass in the bathroom window. The applicants offer to make the window inward opening so that it does not provide a view out;
- The proposed window replaces a rooflight in the existing bathroom, which will be lost to facilitate the proposed extension and it will provide light and natural ventilation which is a more sustainable solution than artificial light.

6.3. Planning Authority Response

- No response received

6.4. Observations

- None

6.5. Further Responses

None

7.0 Assessment

7.1. Having examined the application details and all other documentation on the appeal file, including the appeal submission, and inspected the site, and having regard to relevant local policies and guidance, I consider the main issues in this appeal are those raised in the ground of appeal. The main issue is:

- Impact of new gable window on the amenity of the neighbouring house and garden

7.2. There are currently no windows in the side elevation of No 1 Richmond Villas. This application proposes a new window in the elevation at first floor level to serve an existing ensuite bathroom. The bathroom is lit via a rear facing rooflight at present, but this rooflight will be lost on construction of the new rear extension.

7.3. The new window would overlook the front garden, and the corner of the single storey front extension of the neighbouring house, Woodland, the nearest point of which is approximately 5.5m from the gable wall. There is therefore some potential that the window could impact on the privacy and amenity of the garden and house by reason of overlooking. However, in my opinion a condition requiring the window of the bathroom to be glazed with obscured glass, with an inward opening section for ventilation, would protect the residential amenity of the neighbouring house and satisfy the Development Plan requirement that rear extensions have no significant impact on surrounding residential and visual amenities, taking into account among other things, the degree of overlooking (Section 11.4.4.1.2 as outlined above).

7.4. The proposed window is therefore considered acceptable, subject to appropriate condition, and not considered seriously injurious to the residential amenity of the neighbouring house or out of keeping with the proper planning and sustainable development of the area.

7.5. I note the concerns of the applicant in relation to creation of a right to light by the construction of the window. I consider this is not a planning issue appropriate for consideration as part of this planning appeal and is a matter to be addressed separately between the two parties themselves.

7.6. **Appropriate Assessment**

Having regard to the nature and scale of the proposed development and its location relative to Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the development would be likely to have a significant effect, either individually or in combination with other plans or projects, on a European site.

8.0 **Recommendation**

8.1. I recommend that planning permission be granted subject to the conditions outlined below.

9.0 **Reasons and Considerations**

Having regard to the residential land use zoning of the site, the design, nature and scale of the proposed development, the existing pattern of development in the area, and the provisions of the Limerick City and County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity in terms of overlooking or other impacts. The proposed development would therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 **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 further plans and particulars submitted on 27 th October 2022 and 10 th November 2022 to the Local Authority, 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.
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	Reason: In the interests of clarity
2.	<p>The floor plans permitted are those submitted on 10 November 2022. The proposed first floor window on the side elevation (ensuite bedroom) shall be glazed with obscured glass on a permanent basis and any opening section shall only open inward.</p> <p>Reason: In the interests of clarity and to prevent overlooking of the adjoining residential property</p>
3.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1800 Mondays to Fridays inclusive, 0800 to 1400 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>Reason: In order to safeguard the residential amenities of property in the vicinity.</p>
4.	<p>Drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p>Reason: In the interest of public health.</p>

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Ann Bogan
 Planning Inspector

10th May 2023