



An
Bord
Pleanála

Inspector's Report

ABP-315681-23

Development	The sub-division of the existing property. New dwelling house, entrance, connection to public services, and all associated site works.
Location	Adjacent to 57 Shelbourne Park, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22/92
Applicant(s)	Jennifer & Liam Brett
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Tony & Marion Kearns
Observer(s)	None
Date of Site Inspection	31 st October 2023
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site is located on the corner of Shelbourne Park and Glenview Drive, in an established residential area in Limerick City. Houses in the immediate vicinity generally comprise two storey semi-detached dwellings. The dwelling immediately to the north of the site are single storey. The road network within the residential area is constrained with narrow road widths and restricted turning areas.
- 1.2. The subject site comprises the rear/side garden of 57 Shelbourne Park, located to the north of the existing two-storey dwelling. The site area is stated as 0.02ha. The northern and western boundary of the site is defined by dense matures trees and hedging.

2.0 Proposed Development

- 2.1. Permission is sought for a detached two storey dwelling within the existing garden of 57 Shelbourne Park. Access is proposed from Glenview Drive. In response to requests for Further Information the proposed dwelling has been redesigned. The revised design has a stated floor area of 123sqm and a ridge height of 7.025m. It is proposed to provide 2 parking spaces to the front of the dwelling. It is proposed to connect to the public water supply and to the public wastewater system.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission subject to 11 no. conditions which were generally of a standard nature. Condition 2 required the payment of a development contribution in accordance with the terms of the Development Contribution Scheme. Condition 9 required a 2m high privacy wall to be constructed along the south dividing boundary between houses. Condition 11 required the applicant to take appropriate measures during the construction phase to ensure no damage is caused to any adjoining property during the construction phase and repaired where necessary at the expense of the applicant.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial Planners Report (24/03/2022) notes that the dwelling is not in line with either 57 or 58 Shelbourne Park. It is noted that no details in relation to open space or boundary treatments has been submitted. Given the single storey dwelling to the immediate north, sunlight analysis is warranted. Furthermore, the roof type is considered inappropriate and not in keeping with the design of the area. Further Information is requested in this regard.

Further Information was submitted on 28th September 2022 and included a revised Site Layout Plan (Drawing no. 221100/PL/001) and a Contiguous Elevation (Drawing no. 221100/PL/200) which showed a reduction in the scale and reorientation of the dwelling in line with the adjacent property to the north, and the provision of 2 car parking spaces. An overshadowing report prepared by H3D was also submitted which concludes that the proposed development would not cause an overly negative impact on the adjacent properties. A Stormwater Drainage Layout (Drawing no. 221100/PL/002), which details the proposed surface water management proposals for the site was submitted. The Planners Reports (21/10/2022) reiterates concerns in relation to the design of the dwelling and considers that the proposal would still be overdevelopment of the site. The applicant was advised to submit a revised design with a modern/contemporary emphasis.

Clarification of Further Information was submitted on 16th December 2022. Revised plans/designs were submitted with a modern/contemporary emphasis. The planners report (16/01/2023) notes the orientation and footprint of the dwelling is the same as was proposed at FI stage. The revised design was considered acceptable, and a grant of permission was recommended.

3.2.2. Other Technical Reports

Roads – Concerns are raised with regards to the congestion on the street and access for emergency vehicles. The applicant was requested to submit proposals which may alleviate congestion of parked cars. The applicant was also requested to submit a Surface Water Disposal Layout Plan. SuDS measures should be implemented and measures shall also be taken to prevent the flow of water from the

development onto the public road. The further information was in this regard was considered acceptable.

3.3. **Prescribed Bodies**

Irish Water – (13/03/2022) No objection

3.4. **Third Party Observations**

The Planning Authority received 26 third no. party submissions on the application. A further 34no. submissions were received on the Further Information, and 35 no. of further submissions were received on the Clarification of Further Information. The main concerns are summarised in the Planners Report and fall into the following headings;

- Design, Scale, height and Orientation
- Access, traffic and parking issues
- Visual Impact
- Overlooking and overshadowing of adjacent properties
- Noise pollution and disturbance
- Overdevelopment of the site
- Devalue of property
- Poor Drainage
- Loss of Privacy
- Lack of consultation

4.0 **Planning History**

None

5.0 **Policy Context**

5.1. **Limerick Development Plan 2022-2028**

- 5.1.1. The site is zoned 'Existing Residential' with the objective to provide for residential development, protect and improve existing residential amenity. This zone is intended

primarily for established housing areas. Existing residential amenity will be protected while allowing appropriate infill development.

5.1.2. The site is located in the Thomandgate/Moyross/Caherdavin/Ennis Road Urban Character Area. The objectives for this area include Infill and brownfield development patterns to be favoured.

5.1.3. Chapter 4 contains policies and objectives relating to housing including;

Objective HO O2 - Density of Residential Developments; It is an objective of the Council to:

a) Promote, where appropriate, increased residential density in the exercise of its development management function and in accordance with Table 2.6 Density Assumptions per Settlement Hierarchy in Chapter 2: Core Strategy and the Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities and the accompanying Urban Design Manual, DEHLG, May 2009.

b) Encourage increased densities that contribute to the enhancement of a town or village by reinforcing street patterns or assisting in redevelopment of backlands and centrally located brownfield sites.

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.

5.1.4. **Corner/Side Garden Sites 11.4.4.3** - The sub-division of an existing house curtilage and/or an appropriately zoned brownfield site, to provide an additional dwelling(s) in existing built-up areas will be considered in line with the following:

- Size, design, layout, relationship with existing dwelling and adjoining properties;
- Impact on the amenities of adjacent properties;
- Development Plan standards for existing and proposed dwellings;
- Building lines followed, where appropriate;
- Car parking for existing and proposed dwellings on site;
- Access arrangements including side/gable and rear access/maintenance space;

- Adequate usable private open space for existing and proposed dwellings provided;
- Side gable walls as side boundaries facing corners in estate roads are not considered acceptable and should be avoided;
- Appropriate boundary treatments should be provided.

5.2. Natural Heritage Designations

Lower River Shannon SAC (002165) - 0.7km to the south of the site

River Shannon and River Fergus Estuaries SPA (004077) - 0.9km to the south of the site

Fergus Estuary and Inner Shannon, North Shore pNHA (002048) – 0.7km to the south of the site

5.3. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The third-party appeal was submitted by Tony and Marion Kearns of 58 Shelbourne Park which lies immediately to the north of the appeal site. The main points raised in the appeal are summarised below;

- Procedural Issues – The appellant notes that no Site Layout Plan or Contiguous Elevations were submitted to represent the revised design. It is acknowledged that a revised Site Layout Plan was subsequently submitted by way of Unsolicited Further information. The applicant should have been notified in writing of the deficit in the drawings submitted and asked to re-submit a further complete clarification of information.

- Residential Amenity – The appellant contends that no effort has been made to successfully integrate the dwelling into the site or to minimise its impact on the residential amenity of adjoining units. The design approach will result in overlooking of the rear garden of 55 Shelbourne Park and an encroaching vista to the occupants of 57 Shelbourne Park. The footprint is excessively bulky and will result in overshadowing and overlooking of the private space to the rear of 58 Shelbourne Park. The proposed development will impact on the appellants use of their private open space.
- Traffic and Parking – The appellant notes that the property is located on a bend within the estate and that there are existing access issues for emergency services, refuse lorries and residents due to haphazard parking. The additional dwelling and narrow driveway proposed will result in occupiers of the dwelling parking on the street.
- The appellant has submitted an alternative site layout which they believe is an improvement on the layout submitted by the applicant.

6.2. Applicant Response

A response prepared by Liam Judge Associates on behalf of the applicant was submitted. The response reiterates the design changes which occurred throughout the application process in an attempt to reduce the proposed developments impact on neighbouring structures. It is contended that the alternative layout submitted by the appellant would result in a confined front parking space, leading to vehicles reversing onto the road, exacerbating traffic issues. It is considered that the development provides a balance between the protection of residential amenities, the established character of the area and the need to provide for sustainable new development.

6.3. Planning Authority Response

None

6.4. **Observations**

None

7.0 **Assessment**

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Procedural Issues
- Residential Amenity
- Traffic and Parking
- Appropriate Assessment

7.2. **Procedural Issues**

7.2.1. In terms of procedural matters and the alleged deficiencies in the material submitted, I note that the materials were considered acceptable by the Planning Authority. I consider that sufficient information has been submitted with the application and further information to allow the Board to come to a decision and that there has been no prejudice to other parties.

7.3. **Residential Amenity**

7.3.1. Concerns are raised by the third-party appellants with regard to overbearing impact, potential for overlooking and overshadowing/loss of light. The appellant contends that no effort has been made to successfully integrate the dwelling into the site or to minimise its impact on the residential amenity of adjoining units. I note the revised proposals for a modern contemporary design. This revised design includes a monopitch roof with the lower part of the roof adjacent to 58 Shelbourne Park. The revised design has ridge level of 7.025m, resulting in a reduction in ridge level by 1.9m from what was originally proposed (8.993m). I consider that efforts have been made by the applicant to reduce the scale of the development and these are welcomed. I consider that the proposed development would generally reflect the established pattern of development in the area.

7.3.2. The appellant contends that the proposed development will result in overlooking. I note from my review of the submitted plans that no windows are proposed on the first-floor side elevations which eliminates the potential for overlooking. While

windows are proposed at first floor level of the rear elevation, it is considered that the orientation of the proposed building would not give rise to opposing windows and as such is considered acceptable. The appellants also consider that there will be overshadowing due to the excessively bulky footprint of the development. On review of the shadow analysis submitted with the application by H3D, I consider that any overshadowing would be minor and not to an unacceptable degree. The degree of overshadowing is unlikely to be excessive or unusual in the densely developed urban setting.

7.3.3. Having regard to all of the above, I do not have any undue concerns with regards the impacts on residential amenity. I do not consider that the proposed development will impede the use of private open space associated with neighbouring developments. In conclusion, it is considered that the design and layout of the proposed development, (as revised in the submitted plans dated 16th December 2022), would not significantly injure the residential amenities of the neighbouring properties, would protect the amenities of the future occupants of the existing and proposed dwellings, and would generally reflect the established pattern of development in the area.

7.4. Traffic and Parking

7.4.1. On the issue of the potential for the proposal to give rise to pedestrian vehicular conflict and traffic hazard, it is acknowledged that Shelbourne Park and Glenview Drive which serves as access to the site are of limited capacity. However, I consider that this would not be a barrier to development on the site. The proposed development provides for 2 car parking spaces in accordance with the Development Plan requirements (2 spaces per unit for dwellings with 3 bedrooms+ within Zone 2). I consider that a suitably devised construction management plan can appropriately coordinate and mitigate traffic impact and access arrangements for the construction phase of the development. As regards any issues of illegal or overspill car parking in the area such matters are matters for the Local Authority and An Garda Síochána.

7.5. Appropriate Assessment

Lower River Shannon SAC (002165) lies approx. 0.7 km to the south. River Shannon and River Fergus Estuaries SPA (004077) lies approx. 0.9km to the south. The site of the proposed development is located within the city and is separated from the European sites by extensive buildings, infrastructure, and other developments. Given

the distances involved, and that the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

Recommendation

- 7.6. I recommend that permission be granted subject to conditions for the reasons and considerations set out below.

8.0 Reasons and Considerations

Having regard to the provisions of the Limerick Development Plan 2022-2028, to the scale and nature of the proposed development and to the nature and character of the surrounding environment, it is considered that subject to compliance with the conditions set out below, the proposed development would be an acceptable form of development at this location and would not seriously injure the amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

9.0 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 the 28th day of September 2022, 16th day of December 2022, and the 6th day of January 2023, 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. Details of the materials, colours and textures of all the external finishes to the proposed development 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. Prior to the commencement of development, the developer shall enter into water and wastewater connection agreements with Irish Water. No dwelling shall be occupied until water and sewerage services serving the development have been installed and functioning in accordance with the connection agreements made with Irish Water.

Reason: To ensure that satisfactory water and wastewater arrangements are in place to serve the development.

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 existing roadside boundary and hedgerow shall be retained, where possible. Screen walls shall be provided along the southern boundary, which shall be 2 metres in height above ground level. Details of the layout, materials and external finishes of the proposed boundary treatment shall be submitted to, and agreed in writing with, the planning authority prior to the commencement of development.

Reason: In the interest of residential and visual amenity

6. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. Footpaths shall be dished at road junctions in accordance with the requirements of the planning authority. Details of the locations and materials to be used in such dishing shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of pedestrian safety.

8. The applicant shall take appropriate measures during the construction phase to ensure that no damage is caused to any adjoining property during the construction phase and repaired where necessary at the expense of the applicant.

Reason: In the interests of residential amenity.

9. 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 the commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

10. Prior to the commencement of development, the developer or any agent acting on its behalf, shall prepare a Resource Waste Management Plan (RWMP) as set out in the EPA's Best Practice Guidelines for the Preparation of Resource and Waste Management Plans for Construction and Demolition Projects (2021) including demonstration of proposals to adhere to best practice and protocols. The RWMP shall include specific proposals as to how the RWMP will be measured and monitored for effectiveness; these details shall be placed on the file and retained as part of the public record. The RWMP must be submitted to the planning authority for written agreement prior to the commencement of development. All records (including for waste and all resources) pursuant to the agreed RWMP shall be made available for inspection at the site office at all times.

Reason: In the interest of sustainable waste management.

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. The contribution shall be paid prior to the 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 the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 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.

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.

Ciara McGuinness

Planning Inspector

15th November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	The sub-division of the existing property. New dwelling house, entrance, connection to public services, and all associated site works.		
Development Address	Adjacent to 57 Shelbourne Park, Limerick		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	✓	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	✓		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	No EIAR or Preliminary Examination required

Yes		Class 10(b)(i) Construction of more than 500 dwelling units - Sub Threshold		Proceed to Q.4
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4. Has Schedule 7A information been submitted?				
No	✓		Preliminary Examination required	
Yes			Screening Determination required	

Inspector: Ciara McGuinness Date: 15th November 2023