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## Inspector's Report ABP316201-23

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<b>Development</b>	First floor extension to the side of existing house and conversion of ground floor garage to living room, together with associated site works.
<b>Location</b>	3, Heidelberg, Milford Grange, Castletroy, Limerick.
<b>Planning Authority</b>	Limerick City and County Council.
<b>Planning Authority Reg. Ref.</b>	22/1274.
<b>Applicant(s)</b>	Fabian Healy.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Grant permission with conditions.
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Hannah O'Sullivan, c/o Plassey Residents Association. Anne Frawley, 5, Heidelberg, Milford Grange.
<b>Observer(s)</b>	None on file.

**Date of Site Inspection**

27.07.2023 & 26.09.2023.

**Inspector**

Des Johnson.

## 1.0 Site Location and Description

- 1.1. Heidelberg, Milford Grange, Castletroy is approximately 4.5km to the east of Limerick City Centre, to the north side of the Dublin Road, south of Plassey Park Road, and a short distance south of the University of Limerick. The subject site is on the east side of Heidelberg and at the southern end of the cul de sac. No. 3 is a two-storey semi-detached dwelling with a single storey un-converted garage to the side.
- 1.2. The ridge height of No.3 is marginally higher than the ridge line of No.5 (appellant). No.5 has a window at first floor level in the gable facing the subject site. It is set back above a single storey un-converted garage and appears to be in frosted glass.

## 2.0 Proposed Development

- 2.1. The proposal is for a first floor extension to the side of existing house and conversion of ground floor garage to living room, together with all associated works. The proposed first floor extension provides for a bedroom and storage room.
- 2.2. The gross floor area of the existing building is stated to be 104 sqm, the gross floor area of proposed works is stated to be 28 sqm, and the site area is 0.026ha.

## 3.0 Planning Authority Decision

### 3.1. Decision

By Order dated 15.03.2023, the planning authority decided to grant permission, subject to 7 conditions.

Condition 1 requires compliance with plans and particulars submitted with the application, as revised by additional information. Condition 2 requires the existing dwelling and the proposed extension to be used solely as a single dwelling unit, and not be subdivided in any way through sale, letting or by other means. The reason for this condition is to restrict the use of the extension in the interest of residential

amenity and the proper planning and sustainable development of the area. Condition 6 restricts the hours of construction. Other conditions refer to standard matters.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

This is one of four applications for extensions to an existing dwelling house within the Milford development in Castletroy. The area is zoned 'existing residential'. Two objections were received, one from the Residents Association, the other from a neighbour (No.5). These raise issues of requirement for consent to build off a party wall, load bearing capacity of the party wall, potential overshadowing, adverse noise, increased multi occupancy of dwelling, car parking congestions, access for emergency vehicles, anti-social behaviour, Development Plan objective HO 08, change of use, sewerage and other issues.

Further Information is recommended relating to the following:

- Clarification in respect of the party wall, including revised detailed drawings or demonstration of written consent from the neighbouring property
- Demonstrate car parking to Development Plan standards
- Address submission received.

Further Information was submitted, date stamped 21.02.2023, confirming that it is not proposed to build on the party wall (revised drawing submitted), revised drawing showing two car parking spaces and bicycle spaces, and confirmation that subdivision of the premises is not proposed. Following consideration of the Further Information, permission is recommended subject to conditions.

#### **3.2.2. Other Technical Reports**

None on file.

### **4.0 Planning History**

Register Reference 07/1094 – permission granted for a granny flat extension to existing dwelling and all ancillary site works at 1, Heidelberg. The decision is dated 18.07.2007.

## 5.0 Policy and Context

### 5.1. Development Plan

The site is in an area zoned existing residential.

Objective HO 03 relates to the protection of existing residential amenity, and seeks 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 08 relates to student accommodation, and seeks to support the provision of high quality, professionally managed purpose-built student accommodation either on campus or in appropriate and accessible locations on public transport or cycle networks. All forms of student accommodation must respect and protect established residential amenities of the area.

### 5.2. Natural Heritage Designations

Lower River Shannon SAC (Site Code: 002165) approximately 700m north of the site.

The River Shannon and River Fergus Estuaries SPA (Site Code: 004077) approximately 4.6km west of the site.

### 5.3. EIA Screening

5.4. Having regard to the nature and modest scale of the proposed development, its location in a built-up urban area and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

There are two appeals against the planning authority's decision to grant permission subject to conditions. The appeals may be summarised as follows:

#### **Hannah O'Sullivan c/o Plassey Residents Association**

- The Residents' Association has made appeals (221272, 221273, 221275) for other properties in Milford Grange, and ask that they be considered holistically
- Milford Grange is a small estate already stretched beyond capacity with overcrowding and problems with increased demands on existing infrastructure. If permitted, the proposed development will lead to more houses seeking permission for similar type development, increasing the population further and exacerbating existing problems
- An Oral Hearing is requested (the Board decided to decide the appeal by way of written submissions)
- In Milford Grange (excluding Plassey Grove) there are 199 residential homes, with approximately 55 used as long-term residential homes and the remaining 144 in multiple occupancy during the academic year. The trend is for more houses to be used for multiple occupancy. The subject premises is currently a 3 bedroom semi-detached house which the appellants believe is currently rented for the academic year. The proposed development has the potential to create a house for multiple occupancy of 6+ bedrooms.
- The potential for increased traffic is concerning. There are children playing in the vicinity of the proposed development. Traffic speed, congestion, and on on-street parking has been problematic. There can be up to 4 and 6 cars in a house of multiple occupancy and this can cause significant issues. There are traffic safety concerns.
- The proposed development, if permitted, would constitute overdevelopment, and would devalue property in the area.

- There is already a problem of access for service vehicles and emergency vehicles. This causes grave concerns from a public health and safety point of view.
- Anecdotally waste water engineers have indicated concern to residents concerning overload on the waste water treatment pipes in all the estates in the area.
- The proposed development is contrary to Objective HO 08 of the Development Plan. This area was designed for family housing. It is within 15 minutes of all required amenities for family life. Multiple occupancy is skewing the social demographic of this residential area.
- There is a probability of noise nuisance.
- The trend in this area is moving towards unmanaged student accommodation in houses of multiple occupancy. The submission of Further Information to the planning authority gives no comfort.
- The appeal submission includes copy of the objection submitted to the planning authority, including photographs. It also includes a submission made in respect of the Limerick City Draft Development Plan 2022-2028, dated September 2021; this contends that the draft Plan does not address the issue of density of unmanaged student accommodation and associated anti-social behaviour. Further attachments are slides from a meeting between Resident Representatives and An Garda Síochána, a draft Case Study prepared by Milford Residents Association in 2015 'Highlighting negative side effects of over developed student let houses Compostella, Milford Grange, Castletroy, Limerick on the Local Community/Environment', and a series of photographs.

### **Anne Frawley**

This appeal is submitted by John T. Garrett & Associates, on behalf of Ms Frawley, and may be summarised as follows:

- It has not been shown how the applicant intends to construct the proposed development staying entirely within the site boundaries.
- The proposed first floor extension will increase the load on the ground and foundation of the dividing wall with the appellants. An investigation is needed to

establish that the foundation of the dividing wall is capable of taking the increased load.

- It is unclear what proposals are there for safeguarding the appellants property during construction.
- The appellant raises concern regarding increased overshadowing. Overshadowing could be reduced by setting back the front wall of the upper floor extension.
- There are concerns that noise could transfer between the garage conversion to living room and the appellants property.

The appeal submission includes a copy of the objection submitted to the planning authority.

## 6.2. **Applicant Response**

None on file.

## 6.3. **Planning Authority Response**

None on file.

## 6.4. **Observations**

None on file.

## 6.5. **Further Responses**

None on file.

## 7.0 **Assessment**

- 7.1. The proposal is for a first floor extension to a two storey semi-detached dwelling, providing for a single bedroom with separate storage room, and also for the conversion of an existing single storey garage to the side to living room. The drawings submitted with the application indicate that the existing house has 3 bedrooms (2 doubles and 1 single) served by 1 bathroom at first floor level. The



proposed first floor extension would be over the proposed converted garage. In response to a request for Additional Information, it is stated that it is not proposed to build on the party wall, and “this proposed development is NOT for the subdivision of the premises”. The planning authority has granted conditioned permission for the proposed development with Condition 2 requiring that the existing dwelling and the proposed extension shall be used solely as a single dwelling unit and not be subdivided in any way through sale, letting or by any other means”. The reason given for this condition is “to restrict the use of the extension in the interest of residential amenity and the proper planning and sustainable development of the area”. There is no appeal by the first party in respect of this condition or the reason for its imposition.

7.2. There are two third party appeals, stated to be on behalf of Plassey Residents Association, and the Anne Frawley, 5, Heidelberg. The Residents Association appeal is one of 4 appeals made against decisions to grant permission for developments in the vicinity. Several of the grounds of appeal relate to claimed anti-social behaviour in the area resulting from existing multiple occupancy of dwellings during the academic year. I submit that the enforcement of planning conditions is a function of the planning authority and that the Board has no role in this regard. Any other forms of anti-social behaviour are matters to be addressed by the appropriate authorities. The Board is required to assess the current proposal on its own merits.

7.3. I submit that the key planning issues to be addressed are as follows:

- Development Plan policy
- Proposed design and existing pattern of development in the area
- Traffic
- Devaluation of property
- Potential impact on No.5 Heidelberg.

#### 7.4. **Development Plan Policy**

The making of planning policy is a matter for the planning authority and is expressed through the Development Plan. The appellants argue that the proposed development, taken with other current similar proposals in the vicinity, would be

contrary to Objective HO-08 of the current Development Plan for the area. Objective HO 08 relates to student accommodation, and seeks to support the provision of high quality, professionally managed purpose-built student accommodation either on campus or in appropriate and accessible locations on public transport or cycle networks. All forms of student accommodation must respect and protect established residential amenities of the area.

I submit that there is no convincing evidence submitted to indicate that the proposed development, as clarified by way of Further Information and as conditioned in the planning authority's decision to grant permission, would be contrary to Development Plan policy or would be detrimental to the established residential amenities of the area.

#### **7.5. Design**

The appellants argue that the proposed development would be out of character with the existing pattern of development in the area. I note that there are other first floor extensions and garage conversions to properties in the area, including Heidelberg. I submit that the proposed design is acceptable and would not be out of keeping with the established pattern of development in the area.

The proposed first floor extension provides for a window to the front serving the bedroom, and, also a window to the rear serving the proposed storage room. These would not give rise to overlooking of the adjoining property and are acceptable.

#### **7.6. Traffic**

The development, as permitted, would provide for two off-street parking spaces to the front of the subject dwelling. Having regard to the location proximate to public transport routes, I consider that this is acceptable, and would not give rise to traffic congestion or access problems for emergency vehicles.

#### **7.7. Devaluation of Property**

I submit that the proposed first floor extension and ground floor garage conversion, as permitted by the planning authority, are acceptable and in character with the existing pattern of development in the area. I consider that no convincing evidence is submitted to support the appellants contention that the development would give rise to the devaluation of property in the vicinity.

#### **7.8. Potential Impact on No.5.**

The proposed first floor extension is to the south of No.5 (appellants property). It is 2450mm wide above the proposed converted garage, and the proposed storage room to the rear is set back from the party boundary. Having regard to the scale and orientation of the proposed first floor development, I submit that any overshadowing caused would be minimal and would not be reason for refusal. A window is proposed at first floor level between the proposed bedroom and storage room, providing light to a landing area. A condition requiring this window to be non-opening and fitted with obscure glazing would prevent any overlooking of the rear garden of No.5. The applicant indicates that construction will be entirely within the boundaries of the subject site. Construction would be controlled by way of regulation and certification. In these circumstances, I submit that any impacts on the amenities of No.5 arising from construction would be short-term and minimal.

#### **7.9. Appropriate Assessment Screening**

Having regard to the nature and scale of the proposed development in an existing residential area, the separation distance and to the absence of a pathway between the application site and any European site, there is no likelihood of the proposed development alone, of in combination with other plans or projects having a significant effect on any European site, and it is possible to screen out the requirement for the submission of a Natura Impact Statement.

#### **8.0 Recommendation**

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

## 9.0 Reasons and Considerations

Having regard to the nature and scale of the proposal, and the established pattern and character of development in the area, it is considered that the proposed development, subject to the following conditions, is an acceptable form of development consistent with the proper planning and sustainable development of the area.

## 10.0 Conditions

1.	<p>The development shall be carried out and completed in accordance with the plans and particulars lodged with the application on 1<sup>st</sup> December 2022, and as revised by the further plans and particulars submitted to the planning authority on 21<sup>st</sup> February 2023, except as may otherwise be required in order to comply with the following conditions..</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>The external finishes of the proposed extension (including roof tiles/slates) shall be as outlined on the plans and particulars accompanying the application.</p> <p><b>Reason:</b> In the interest of visual amenity.</p>
3.	<p>The existing dwelling and the proposed extension and converted garage shall be used solely as a single dwelling unit and shall not be subdivided in any way through sale, letting or by any other means.</p> <p><b>Reason:</b> To restrict the use of the extension in the interest of residential amenity and the proper planning and sustainable development of the area.</p>
4.	<p>All surface water run-off from roofs, entrances and parking areas within the site shall be collected and disposed of within the site to the surface water drainage system and shall be discharged to the public surface water sewer. No surface waters shall discharge onto adjoining properties or the public road.</p>

	<b>Reason:</b> In the interest of public health and to prevent flooding in the interest of traffic safety and amenity.
5.	No work shall take place on site outside the hours of 8.00 am to 8.00 pm Monday to Friday and 8.00 am to 4.00 pm Saturday, or on Sundays or public holidays, unless otherwise agreed in writing by the Planning Authority.  <b>Reason:</b> In order to protect the residential amenities of the area.
6.	The window at first floor level facing north, and providing light to the landing area, shall be non-opening and fitted with obscure glazing.  <b>Reason:</b> In the interest of residential amenity.

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Planning Inspector

27<sup>th</sup> September 2023

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.