



An
Bord
Pleanála

Inspector's Report ABP-318521-23

Development	Demolition of existing side extension, construction of two storey side extension, new front porch and bay window, new rear garden shed/gym building, new front boundary wall with piers, gate and dished footpath and all ancillary works.		
Location	8 Hazeldene Drive, Ennis Road, Limerick.		
Planning Authority Ref.	2360672		
Applicant(s)	Laura and Conor O'Neill		
Type of Application	Permission.	PA Decision	To grant
Type of Appeal	First party	Appellant	Laura and Conor O'Neill
Observers	Stephen and Bo Burke; Donal Hickey		
Date of Site Inspection	16/07/2024	Inspector	Ann Bogan

1.0 Context

1. Site Location/ and Description. The house to be extended/modified is a semi-detached two storey house located in a housing estate in Limerick's northern suburbs. Rear gardens of two adjacent houses in Oakland Drive back onto the side boundary of the subject site. The side boundary between the properties consists of a circa 2m high concrete block wall.

2. Description of development. Demolition of existing flat roofed two-storey side extension/garage and replacement with a larger two-storey side extension; new front porch and bay window; and new 1.2m front boundary walls and 1.6m gate pillars. Overall house size will increase from 178sqm to 187sq.

Proposed gym/store room (73sqm) in rear garden.

3. Planning History. None.

4. National/Regional/Local Planning Policy (see Appendix 1 attached)

Sustainable Residential and Compact Settlements Guidelines for Planning Authorities 2024,

- Section 5: Development Standards for Housing, SPPR 1 Separation Distances
- Limerick County Council Development Plan 2022-2028
- Section 11.4.4.1.2 Side Extensions to dwellings

5. Natural Heritage Designations

- None

2.0 Development, Decision and Grounds of Appeal

6. Planning Authority Decision

The planning authority decided to grant permission for the development subject to 15 mainly standard conditions. The planning officer noted that two windows are proposed at first floor level in the north gable and given the orientation of the dwelling and the proximity of rear gardens of properties on Oakland Drive, recommended that they be omitted.

Condition No 9 required that the proposed windows at first floor north gable be omitted in the interest of residential amenity.

Other internal reports

Roads Dept: no objection subject to conditions.

Prescribed bodies submission

Uisce Eireann: No objection subject to connection agreement

Third party submissions to Planning Authority

Two third party submissions were received raising concerns of overlooking of their properties by proposed windows in side (north) elevation, impacting on their residential amenities. Similar issues are raised in the observations on the appeal.

7. First Party Appeal

Appeal submitted by Noel Kerley Associates on behalf of applicants:

- Appeal relates to condition No 9 of decision to grant permission which requires the proposed windows at first floor north gable to be omitted
- The 2 proposed windows serve the family bathroom and ensuite bathroom to bedroom 1 and are not deemed habitable rooms under Building Regs. Technical Guidance documents
- Want to ensure these bathrooms have natural light and ventilation, negating need for electric light and mechanical ventilation which is a more sustainable approach
- Distance from proposed gable and neighbouring property line is 18.5m and is acceptable distance to protect existing privacy
- References precedents where Limerick Co Council have granted permission for first floor windows overlooking gardens, including one upheld by An Bord Pleanála with condition requiring obscured glass in window
- Notwithstanding all the above, applicants are willing to alter window design so that bottom two thirds of windows are fully fixed and top one third has opening section for ventilation, all glazing to be frosted design, to take account of neighbour's concerns re overlooking their properties. Drawing submitted with appeal shows proposed alteration.

8. Planning Authority Response

- None.

9. Observations

Donal Hickey

- Currently no windows in gable end overlooking his property
- Previously mature trees and undergrowth on adjoining property boundary gave privacy but these were removed by owner

- Any windows overlooking his property, whether frosted or not, will severely impact his property
- Requests decision of planning authority to remove windows be upheld

Stephen and Bo Burke

- The two first floor windows directly overlook rear of their property and are in close proximity to their kitchen and living spaces
- The windows are 2m from boundary and under 14 m from their kitchen and living room, and even with frosted glass, will not protect their privacy
- Planned extension can obtain sufficient natural light through rear or front windows or skylights, and request decision of planning authority to be upheld

3.0 Environmental Screening

9. EIA Screening

The proposed development comprising extensions and alterations to a house, is not development of a type which is included under Section 5 of the Planning and Development Regulations 2001 (as amended) and an EIA a screening determination is therefore not required in this case.

10. AA Screening - Use standard wording with site specific focus

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

4.0 Assessment

- 4.1. Having considered the relevant national and local policy, the documentation received with the application and appeal and the observations, and having inspected the site, I am satisfied that the issues to be considered are those raised in the appeal and that all other issues have been adequately addressed by the planning authority. I consider that the key issue to be considered is therefore:

- Impact on Residential Amenity of first floor windows in side (north) elevation

4.2. **Impact on Residential Amenity of first floor windows in side (north) elevation**

- 4.2.1. The proposed development includes demolition of an existing two storey section of the existing dwelling, consisting of a garage with a flat roofed extension overhead, and its replacement with a larger two storey side extension, extending beyond the existing rear wall of the house. The existing side elevation (north) contains no windows, while the proposed extension has a side entrance and two windows at ground floor level and two windows at first floor level. The side extension in the vicinity of the windows is variously 1.6-2.0m from the circa 2m high side boundary wall. The first-floor windows face onto the rear gardens of the neighbouring houses on Oakland Drive, resulting in concerns that they will have a negative impact on residential amenity of occupants.
- 4.2.2. The County Development Plan states: *'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.'* Factors to consider include degree of overshadowing, overbearing and overlooking as well as proximity, height and length along mutual boundaries.
- 4.2.3. SPPR 1 of the Sustainable Residential and Compact Settlements Guidelines, 2024, although primarily targeted at new housing development, also provides some guidance in this case. It states *'when considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained.'*
- 4.2.4. In this case the first-floor windows of the proposed extension are approximately 17.5m from the opposing first floor windows of the adjacent houses on Oakland Drive, with ground floor extensions of these houses somewhat closer. The proposed windows each serve a bathroom, which are not considered habitable rooms, and frosted glass is proposed to reduce the risk of overlooking. The application drawings indicated a circa 50% vertical opening section in each window. An amended drawing (No. 23.5.500.06) submitted with the appeal, proposes an option of amending the design so that only the top third of the windows would be opening. This would

provide light and natural ventilation to the bathrooms but would address the potential for overlooking of neighbouring houses or gardens.

- 4.2.5. Having considered the documentation on the file and the relevant national and local guidance I am satisfied that, subject to inclusion of a condition requiring proposed windows to be of frosted glass, with a small top hung opening section as shown in above referenced drawing, the proposed development would not have a significant negative impact on surrounding residential or visual amenities. I therefore recommend that the planning authority condition requiring that the windows be omitted be replaced by a condition requiring the windows to be of frosted glass with a limited top hung opening section as outlined above.

5.0 Recommendation

- 5.1. I recommend that permission for the development be granted subject to the conditions below.

6.0 Reasons & Considerations

Having regard to 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.

7.0 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
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	<p>shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Surface water drainage arrangements shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
3.	<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. 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.</p> <p>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.</p>
4.	<p>During construction of the proposed development the following shall apply:</p> <ul style="list-style-type: none"> a. No work shall take place outside the hours of 8.00am to 8.00pm Monday to Friday and 8.00am to 4.00pm Saturday, or on Sundays or public holidays, unless otherwise agreed in writing by the Planning Authority b. No surface water run-off shall be discharged onto public roads, foul sewers or adjacent properties

	<p>c. Adequate car parking facilities shall be provided on site for all workers and visitors.</p> <p>Reason: To protect residential amenities in the area.</p>
5.	<p>The proposed windows at first floor level in the side (north) elevation shall be of frosted glass and the window design shall be in accordance with drawing No. 23.05.500.06 submitted with the appeal on 24th November 2023, ensuring that the main part of the window is of fixed design, with the opening section limited to the top third of the window.</p> <p>Reason: To prevent overlooking of neighbouring properties, in the interest of residential amenity.</p>
6.	<p>The external finishes of the proposed extension shall match those of the existing dwelling in respect of colour and texture.</p> <p>Reason: In the interest of visual amenity.</p>
7.	<p>The front boundary walls and piers, including capping and gate, shall not exceed 1.0m in height. Any damage to the public footpath shall be repaired at the applicants' expense in agreement with the planning authority.</p> <p>Reason: In the interest of traffic and pedestrian safety.</p>
8.	<p>The existing dwelling and the proposed extension shall be used solely as a single dwelling and shall not be subdivided in any way through sale, letting or by any other means.</p> <p>Reason: In the interest of residential amenity.</p>
9.	<p>a. The proposed garage/gym shall have a maximum floor area of 60sqm. Revised drawings shall be submitted and agreed in writing with the planning authority prior to of construction commencing.</p> <p>b. The garage/gym shall only be used for storage purposes and purposes incidental to the enjoyment of the main dwelling and shall not be used for commercial or habitation purposes.</p> <p>Reason: In the interests of the orderly development of the area.</p>

10.	<p>Prior to the commencement of construction, the applicant shall locate and protect any Uisce Eireann services within the red-line boundary of the site. There shall be no building over water mains, common pipes or sewers and if found the applicant must contact Uisce Eireann with a proposal for altering at the cost of the applicant.</p> <p>Reason: In the interest of public health and orderly development.</p>
11.	<p>An external wall of the dwelling shall have appropriate ducting so as to be capable of accommodating a future electric charging point for electrically operated vehicles.</p> <p>Reason: In the interests of climate change and energy efficiency.</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
23rd July 2024

Appendix 1 Relevant national and local policies and guidance

Sustainable residential and compact settlements guidelines for planning authorities (2024)

SPPR 1 - Separation Distances

It is a specific planning policy requirement of these Guidelines that statutory development plans shall not include an objective in respect of minimum separation distances that exceed 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units or apartment units above ground floor level. When considering a planning application for residential development, a separation distance of at least 16 metres between opposing windows serving habitable rooms at the rear or side of houses, duplex units and apartment units, above ground floor level shall be maintained. Separation distances below 16 metres may be considered acceptable in circumstances where there are no opposing windows serving habitable rooms and where suitable privacy measures have been designed into the scheme to prevent undue overlooking of habitable rooms and private amenity spaces

There shall be no specified minimum separation distance at ground level or to the front of houses, duplex units and apartment units in statutory development plans and planning applications shall be determined on a case-by-case basis to prevent undue loss of privacy.

In all cases, the obligation will be on the project proposer to demonstrate to the satisfaction of the planning authority or An Bord Pleanála that residents will enjoy a high standard of amenity and that the proposed development will not have a significant negative impact on the amenity of occupiers of existing residential properties.

Limerick City and County Development Plan 2022-2028

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.

Any planning application submitted in relation to extensions, basements or new first/upper floor level within the envelope of the existing building, shall clearly indicate on all drawings the extent of demolition/ wall removal required to facilitate the proposed development. In addition, a structural report, prepared by a competent and suitably qualified engineer, may be required to determine the integrity of walls/structures to be retained and outline potential impacts on adjoining properties. This requirement should be ascertained at preplanning stage.