



An  
Bord  
Pleanála

## Inspector's Report

### ABP-318567-23

#### Development

Retention: the existing first floor extension and all associated site works

#### Location

5 James Street, Mallow Street Upper, Limerick

#### Planning Authority

Limerick City and County Council

#### Planning Authority Reg. Ref.

2360076

#### Applicant(s)

John Sheehy

#### Type of Application

Retention

#### Planning Authority Decision

Refuse Permission

#### Type of Appeal

First Party

#### Appellant(s)

John Sheehy

#### Observer(s)

None

#### Date of Site Inspection

7<sup>th</sup> March 2024

#### Inspector

Ciara McGuinness

## **1.0 Site Location and Description**

- 1.1. The appeal site is a two-storey mid terrace dwelling on James Street, in Limerick City Centre. The site is c.30m north of People's Park. A terrace of Georgian houses and associated car parking area are located to the east of the site. A laneway adjoins James St to the north, which the rear of the premises on Davis Street back onto. A residential dwelling and parking area is located to the west of the site. The immediate area is generally characterised by a mix of residential and commercial uses.
- 1.2. The site is bound to the south by no. 4 James Street and a vacant plot of land. Limerick City and County Council issued a Notification of Decision to Grant permission for the demolition no. 4 James Street and the development of an eight-storey building, over basement level, comprising of 21 no. residential units and all associated site works under PA Reg Ref 23/60345. The application is currently the subject of an appeal to the Board (ABP-317797-23).
- 1.3. The applicant has stated that he is also the owner of no. 6 & 7 James Street. The rear yard of no. 6 & 7 James Street provides a communal refuse storage area for the residents of no. 5,6 & 7.

## **2.0 Proposed Development**

- 2.1. Permission is sought for the retention of an existing first floor extension. The area to be retained has a stated floor area of 18sqm and consists of an additional bedroom. The extension to be retained is constructed over an existing WC and the rear yard. The external façade of the extension is finished in a grey shiplap cladding. There are two windows on the northern elevation of the extension.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The Planning Authority issued a Notification of a Decision to Refuse Permission on the 3<sup>rd</sup> November 2023, for the following stated reason;

*“Having regard to the size, scale and design of the proposed development for retention, it is considered that the development would result in over-development of the site and would give rise to a substandard level of residential amenity for the occupants of the dwelling. In addition, the proposed development would seriously injure the amenities and depreciate the value of properties in the vicinity, would set an undesirable precedent for similar developments and be contrary to the proper planning and sustainable development of the area in question.”*

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

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

The Planner’s Report (dated 27/03/2023) outlined concerns with regards to the bulk and scale of the extension. Further Information was requested which required the applicant to submit a Design Statement addressing the following;

- Type of roof profile used, resulting overlooking & overshadowing.
- Loss of amenity space associated with the dwelling.
- The lack of detail with regard to where bins are stored.
- Lack of detail with regard to whether rainwater goods overhang adjoining properties or not.
- Limited detail with regard to the appropriateness of the types of materials and finishes used.

Further Information was received on 10<sup>th</sup> October 2023. The subsequent Planners Report (dated 01/11/2023) considers that the scale of the development which takes over all the rear yard space, to be overdevelopment which would set an undesirable precedent. Additionally, it is noted that it’s unclear if the development overhangs the adjoining site to the south. Overall, it was considered that the development would seriously injure the residential amenity of the occupiers of the subject house and adjoining houses. Refusal was recommended.

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

None

### 3.3. Prescribed Bodies

None.

### 3.4. Third Party Observations

A submission was received from David Fitzgerald stating he was not opposed to the development but wanted to avoid any impact on his neighbouring development.

## 4.0 Planning History

### Application Site

No known history. Warning letter (DC-180-21) issued in respect of the subject development.

### Applications in the vicinity

PA Reg Ref 23/60345 - The demolition of an existing two storey residential dwelling, development of an eight-storey building, over basement level, comprising of 21 no. residential units and all associated site works at Numbers 1–4 James' Street and 6 and 7 Upper Mallow Street, Limerick City. The proposal is currently the subject of a third-party appeal. ABP-317797-23 refers.

## 5.0 Policy Context

### 5.1. Limerick Development Plan 2022-2028

#### Zoning

- 5.1.1. The subject site is zoned 'City Centre' with the following Objective and Purpose;

**Objective:** To protect, consolidate and facilitate the development of the City Centre commercial, retail, educational, leisure, residential, social and community uses and facilities.

**Purpose:** To consolidate Limerick City Centre through densification of appropriate commercial and residential developments ensuring a mix of commercial, recreational, civic, cultural, leisure, residential uses and urban streets, while delivering a high-quality urban environment which will enhance the quality of life of

residents, visitors and workers alike. The zone will strengthen retail provision in accordance with the Retail Strategy for the Limerick Shannon Metropolitan Area and County Limerick, emphasise urban conservation, ensure priority for public transport, pedestrians and cyclists, while minimising the impact of private car-based traffic and enhancing the existing urban fabric.

5.1.2. Residential Use is generally permitted on lands zoned 'City Centre'.

#### **Extensions to Dwellings (Section 11.4.4.1)**

5.1.3. The Development Plan (Section 11.4.4.1.2) states that 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.

#### **Residential Amenity**

5.1.4. Objective HO O3 Protection of Existing Residential Amenity states that 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.

#### **Development Standards**

5.1.5. Table DM 3: Rear Gardens notes that for 1-2 bedroom houses, a minimum rear garden area of 48sqm is required. Standards may be relaxed in exceptional circumstances such as

- where the development is within 10-minute walking distance of a public park or other amenity such as river bank/canal bank walkway/cycleway.
- The need to protect the established pattern of historic plot sizes of medieval streets.

- In respect of an innovative layout proposed in the development, in such circumstances, the Council may consider it appropriate to accept a combination of the area of private and semi-private open space provision as satisfying the private open space provision of the dwellings.

## **5.2. Natural Heritage Designations**

Lower River Shannon SAC (Site Code: 002165) – c.0.5km to the northwest of the site

River Shannon and River Fergus Estuaries SPA (Site Code: 004077) – c.0.5km to the northwest of the site.

## **5.3. EIA Screening**

See Form 1 on file. The development is not a class for the purposes of EIA.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

6.1.1. The grounds of the first party appeal are summarised as follows;

- The applicant owns the neighbouring properties (6 & 7 James Street) and the yard to the rear is a communal space for the occupants of 5, 6, & 7 James Street. No 6 and 7 James Street has windows looking directly over this space as does the subject extension.
- The communal space provided for all 3 properties exceeds the requirements of Sustainable Urban Housing: Design Standards for New Apartments.
- The rear yard behind no. 5 is maintained as the subject extension is constructed at first floor level only. The rear yard to No. 5 is north facing and the reduction on daylight is minimal.
- The subject extension overlooks a laneway that is known for anti-social behaviour and provides passive surveillance.
- The extension is not considered to be overdevelopment. The extension is at first floor level only, is approx. 18sqm and is not higher than the existing

houses. The rear yard is maintained and there is no overlooking of properties that are not owned by the applicant.

- Limerick City and County Council has granted planning permission for an 8-storey building on the adjoining sites. The building will dwarf neighbouring buildings and does not allow for any recreational areas. The Council does not consider this building to be overdevelopment.
- There were no 3<sup>rd</sup> party objections made on the application.
- The property is currently rented to Limerick City and County Council under the HAP scheme and meets all rental requirements.

## **6.2. Planning Authority Response**

None.

## **6.3. Observations**

None

## **7.0 Assessment**

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Residential Amenity
- Appropriate Assessment

## **7.2. Residential Amenity**

7.2.1. The proposed development is for the retention of an existing first floor extension. The Planning Authority's reason for refusal notes that the development would result in over-development of the site and would give rise to a substandard level of residential amenity for the occupants of the dwelling. Notwithstanding the proposed redevelopment in the area and the mandate for compact growth and National, Regional and Local policy, it remains 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.

- 7.2.2. Section 11.4.4.1.2 of the Development Plan requires that 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. I have considered the proposal with regard to the detailed policy guidance provided in the Section 11.4.4.1.2 of the Development Plan (in italics) as follows;

*Degree of overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries;*

The first-floor extension extends to cover the entire footprint of the site resulting in 100% site coverage. The extension is c.4m in depth, spanning the entire depth of the site and is flush to the party boundaries. I also note the location of two windows on the north elevation which face directly into the adjoining properties. The first-floor extension is not in keeping with the scale, and proportion of the terrace block. I consider that the extension is overbearing and obtrusive, causing a significant sense of enclosure and overlooking, and would obstruct sunlight and daylight access from the south over the rear garden and rear facing ground floor windows of the adjoining properties.

*Size and usability of the remaining rear private open space;*

The applicant has noted that the rear yard is maintained as the subject extension is at first floor level only. I note the location of the site in close proximity to People's Park, and relatively small plot size, and while the development plan allows for a relaxation in standards of private amenity space in exceptional circumstances, I consider that the existing rear amenity space has been significantly diminished by the extension at first floor level, to a level that is unacceptable. I consider that the remaining rear yard has no amenity value as it has been almost completely covered and is enclosed. The unavailability of any private open space of any value is unacceptable and would result in substandard accommodation; and this is a reason to refuse permission.

*Degree of setback from mutual side boundaries. No part of the extension shall encroach or overhang adjoining third party properties.*



As noted above, the extension spans the entire depth of the site and is flush to the party boundaries. I also note that the Planners report states it is unclear if the development overhangs the adjoining site to the south. I share these concerns. Having regard to the above, and the lack of set back from side boundaries, I am not satisfied that the development will not have a significant negative impact on the adjoining third party residents.

- 7.3. I conclude therefore that the development for retention has not had regard to the residential amenity of adjoining property and to Objective HO O3 Protection of Existing Residential Amenity of the Development Plan which seek 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. The Board will note the policy guidance in the Development Plan which relates to extensions and the requirement to that there will be no significant negative impacts on surrounding residential or visual amenities. In this regard, I consider the proposed development would be incongruous to the dwelling, would be out of character to the surrounding area and would have a significant negative impact on the visual amenity of the surrounding area. Therefore, I recommend refusal of permission for the extension.

#### 7.4. **Appropriate Assessment**

- 7.4.1. The site is not located within or directly adjacent to any European sites. The closest European sites, the Lower River Shannon SAC (site Code:002165) and River Shannon and River Fergus Estuaries SPA (Site Code: 004077) are situated c.0.5km to the northwest of the site. Having regard to the nature and scale of the proposed development, the separation distance between the subject site and any European site and the nature of the receiving environment, I am of the opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site. Appropriate Assessment is therefore not required.

### 8.0 **Recommendation**

- 8.1. I recommend the extension for retention be refused for the following stated reason.

## 9.0 Reasons and Considerations

Having regard to size and scale of proposed development for retention and its proximity to site boundaries, it is considered that development would be an incongruous and visually obtrusive addition, would result in overdevelopment of the site and would give rise to an unsatisfactory standard of residential amenity for future and existing occupants of the house by reason of inadequate provision of good quality open space. In addition, the development would, in itself and by the precedent established for such structures, cause serious injury to the residential and visual amenities of the area and would, therefore be contrary Objective HO O3 and the Guidance outlined in Section 11.4.4.1.2 of the Limerick Development Plan 2022-2028 and the proper planning and sustainable development of the area.

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.

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Ciara McGuinness  
Planning Inspector

9<sup>th</sup> April 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

|   |   |                      |   |
|---|---|----------------------|---|
| <b>An Bord Pleanála<br/>Case Reference</b>  |   |                      |   |
| <b>Proposed Development<br/>Summary</b>   | Retention: the existing first floor extension and all associated site works |                      |   |
| <b>Development Address</b>  | 5 James Street, Mallow Street Upper, Limerick                               |                      |   |
| <b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b><br>(that is involving construction works, demolition, or interventions in the natural surroundings)  |   | <b>Yes</b>           | ✓   |
|   |   | <b>No</b>            | No further action required                  |
| <b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>   |   |                      |   |
| <b>Yes</b>  |   | Class.....           | EIA Mandatory<br>EIAR required              |
| <b>No</b>   | ✓   |                      | Proceed to Q.3                              |
| <b>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]?</b> |   |                      |   |
|   |   | <b>Threshold</b>     | <b>Comment<br/>(if relevant)</b>            |
| <b>No</b>   | ✓   | N/A                  | No EIAR or Preliminary Examination required |
| <b>Yes</b>  |   | Class/Threshold..... | Proceed to Q.4                              |

**4. Has Schedule 7A information been submitted?**

|            |  |   |
|------------|--|---|
| <b>No</b>  |  | <b>Preliminary Examination required</b> |
| <b>Yes</b> |  | <b>Screening Determination required</b> |

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_