



An
Bord
Pleanála

Inspector's Report ABP-318585-23

Development	Construction of a two-storey dwelling, site entrance, site boundary, connection to existing services and all associated site works		
Location	23 Greenfields, Rossbrien, Limerick		
Planning Authority Ref.	23388		
Applicant(s)	John Connolly		
Type of Application	Permission.	PA Decision	To grant
Type of Appeal	Third party	Appellant	Robert Corrigan
Observer(s)	None		
Date of Site Inspection	13/05/24	Inspector	Ann Bogan

1.0 Context

1. Site Location/ and Description

The site is located at 23 Greenfields, Rossbrien, an existing residential estate in the south-western suburbs of Limerick city. The existing two-storey house is an end of terrace unit, part of a terrace of 6 units, and has a front, rear and side garden. It is bounded by a main road (shown on location map as Greenfields Road but also referred to as Rosbrien/Rossbrien Road) to the front (west) and a cul de

sac road to the side (north). There is an existing vehicular entrance to the rear of the site, off the side road and a pedestrian access off Rosbrien Road.

2. Description of development

The proposed development is to extend the existing terrace by constructing a two-storey two-bed dwelling in the side garden. The initial layout submitted showed a proposed vehicular entrance to the new dwelling off the side road, as well as the existing vehicular entrance to the rear, but no vehicular entrance to the existing house.

Following a further information request a revised drawings were submitted modifying the roof design to show a hipped roof to match existing and a new layout plan which:

- showed the site boundary 'red line' around both the existing and proposed houses
- retained the existing vehicular entrance
- omitted the proposed new vehicular entrance in the side boundary and
- proposed a new vehicular entrance off Rosbrien Road to serve the existing house

3. Planning History

None

4. National/Regional/Local Planning Policy (see relevant policies attached)

Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024

The Limerick City and County Development Plan 2022-2028 was adopted by the planning authority on 17th June 2022. It has regard to national and regional policies in respect of compact growth and development.

- Policy CGR01 Compact Growth and Revitalisation
- Objective CGR03 Urban Lands and Compact Growth
- Zoning: Existing Residential

5. Natural Heritage Designations

- Lower Shannon SAC: 1.8km

2.0 Development, Decision and Grounds of Appeal

6. PA Decision.

The planning officer concluded that the design and layout of the proposed development were acceptable and overlooking and overshadowing were not a concern. Further information was requested seeking a revised public notice describing the development as a sub-division and seeking a revised layout showing 'red line' boundary to include both existing house and new house; details of vehicular access to both houses, surface water disposal proposals and revised roof details. Following receipt of further information, the development was considered to be acceptable. Planning permission was granted subject to 12 conditions.

Internal submissions

Roads Section: raised comments in relation to vehicular access, surface water drainage etc and recommended further information. Accepted further information, subject to conditions

Third Party Submissions/Observations

Four submissions were received raising issues of traffic impact on the cul de sac and junction, car parking, overlooking and overshadowing, overdevelopment, history of blocked sewers to rear of existing houses, query re location for bins, reduction in amenity area.

Four additional submissions were received following receipt of further information; two were from parties who had made submissions previously, (including the appellant) and two were from other parties. Issues raised included traffic impact, visual impact on existing terraces and over development of the site and concern re error in the time period stated in the further information public notice.

7. Third Party Appeal

A third party appeal was lodged by Mr Robert Corrigan of 8 Greenfields, Rosbrien Road, stated to be on behalf of local residents. The grounds of appeal in summary are:

- Revised site notice dated 18/10/23 and newspaper notice dated 7/10/23 stated that the local authority was accepting submissions on the revised proposals within 5 weeks of the receipt of the significant further information
- A resident, Mr Colm Healy, made a submission dated 03/11/23. However local authority deemed it invalid, as last date for submissions was 1/11/23
- Newspaper notice and site notice were incorrectly worded and should have stated 2 weeks for submissions as per Article 35 (1) (a) (v) of the Planning and Development Regulations as amended.
- This procedural error denied the resident an opportunity to have a submission considered by local authority. Further it has denied other 3rd party observers to make a submission on revised plans, as a decision was made by local authority during stated period for public consultation
- The Board should refuse permission for the development. There is no mechanism available to the applicant that would allow reopening of the file at local authority level
- Decision is flawed and unlawful and any appeal that upheld such decision would also be considered flawed
- Notwithstanding primary reason for appeal as stated above, the issues raised in submissions to local authority still stand.

8. PA Response

None

8A. Response of applicant:

Agent, Danarch, on behalf of applicant:

- As per the planner's report the development is in compliance in terms of sustainable design and development of the local area and with development plan policies and objectives and Section 28 Guidelines.
- Third party submissions raised re issues of traffic impact, visual impact on the terrace and overdevelopment of site. Further information response addressed these concerns and were deemed acceptable by Limerick City and County Council
- Believes appellants claim that wording of public notice denied him opportunity to make further submissions after further information submission is incorrect

- Council did not ask for revised public notice because they deemed it 'significant public information'. It was just to change the wording of the development description to refer to a sub-division and revised boundary line including existing house.
- If the Council did seek a new public notice because they deemed the further information to be significant, a new public notice is required and site notice template is required stating planning reference number and timelines for submission. As Council only wanted a new description of the development the new notices are in compliance.
- Does not accept that 'procedural error' denied resident opportunity to have submission considered by local authority. Limerick City and County Council wrote to all parties who lodged a submission, on 19/10/23, the day further information was submitted, stating they had until 1/11/23 to make further submissions on the revised plans, so there was ample opportunity for further appeals against the development.

3.0 Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

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 reviewed the documentation submitted with the application and the appeal and taken account of local and national policies and guidance and having inspected the site, I consider the main issues can be assessed under the following headings:

- Principle of the development
- Design and visual impact
- Residential amenities
- Road/Traffic issues
- Other issues

4.2. **Principle of the development**

4.2.1. The site is in an area zoned 'Existing Residential' which aims 'to provide for residential development protect and improve residential amenity'. The Development Plan states that 'existing residential amenity will be protected while allowing appropriate infill development.' The sub-division of a larger site to facilitate infill development is consistent with this zoning objective and with development plan and national policies promoting compact growth and is therefore acceptable in principle.

4.3. **Design and visual impact**

4.3.1. The proposed two storey two bed unit, which was amended to incorporate a hipped roof at further information stage, is in character with the existing terrace of houses it adjoins and I consider the design to be acceptable. The insertion of an additional unit will result in a variation to the symmetry of six-unit terraces in the area and reduction in the standard gap between the terraces. However, I believe this will not have a significant visual impact and is acceptable in the context of the overall aim of national and development plan policy of encouraging compact growth within existing built-up areas (Development Plan Policy CGR P1, Objective CGR 01 - see attached).

4.4. **Residential Amenities**

The proposed dwelling has windows front and back but no windows proposed in the side elevation facing the cul de sac road. Its rear elevation is circa 21.5m from the side elevation of the nearest house to the rear/east (No 22 Greenfields) and 13.5m

from the nearest house to the side/north (No 10 Greenfields). The separation distances and private amenity space provision comply with the standards set in the Sustainable Residential Development and Compact Settlements, Guidelines for Planning Authorities, 2024. I am satisfied based on the height and design of the building and its distance from other existing dwellings that the proposed dwelling will not be overbearing and will not overshadow or result in overlooking of the neighbouring houses or otherwise detract from the residential amenity of the area.

4.5. Roads/Traffic Issues

- 4.5.1. Following revised proposals at further information stage, on-site parking is provided for the proposed house and the existing house. The development should therefore not result in a significant increase in on-street parking or congestion in the area.
- 4.5.2. The Planning Authority Roads Engineer raised concerns re raised fencing added to side wall of site which might impact on sightlines at the junction with Greenfields Road. A condition requiring its removal is considered appropriate to address this. Issues raised in relation to surface water drainage and sewers on site can also be dealt with by condition.

4.6. Other issues: Validity of planning authority decision

- 4.6.1. The appellant questions the validity of the decision made by the planning authority on the basis that the revised public notice and newspaper advertisement submitted by the applicant to the planning authority in the context of further information, stated in error that observations or submissions on the further information should be made not later than five weeks of receipt of the further information by the planning authority, rather than not later than two weeks, as required under Article 35.(1)(a)(v) of the Planning and Development Regulations as amended.
- 4.6.2. The matters raised refer to the procedures at local authority level in dealing with and deciding on the application. These are not matters on which the Board can adjudicate. The appeal before the board is valid and the third party's right to participate is given full effect. The Board will consider and decide upon the application 'de novo' and has no supervisory function in relation to how the planning authority carried out its planning function.

5.0 Recommendation

5.1. I recommend that permission for the development be granted.

6.0 Reasons & Considerations

Having regard to the provisions of the Limerick City and County Development Plan 2022-2028, and the nature and scale of the proposed dwelling, it is considered that subject to compliance with the conditions set out below, the proposed development would not materially contravene the Development Plan for the area, and would not seriously injure the residential or visual amenities of the area. The proposed development, would therefore, be in accordance with the proper planning and sustainable development of the area.

7.0 Conditions

1.	<p>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 received by the planning authority on 19th October 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<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 and 8.00pm Monday to Friday and 8.00am and 4.00pm Saturday, or on Sundays or public holidays, unless agreed in writing by the Planning Authorityb. No surface water run-off shall be discharged onto public roads, foul sewers or adjacent property

	<p>c. Adequate parking facilities shall be provided on site for all workers and visitors.</p> <p>Reason: To protect residential amenities in the area</p>
3.	<p>A Construction Management Plan shall be submitted to and agreed in writing with the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including hours of working, noise/vibration and traffic management measures and off-site disposal of construction waste.</p> <p>Reason: In the interest of public safety and residential amenity.</p>
4.	<p>a. The rear dividing fence between the two houses shall be a block wall and shall be plastered and capped and painted prior to occupation of the dwelling.</p> <p>b. The dividing boundary to the front of the two houses shall not exceed 1.0m in height.</p> <p>c. The timber fence erected on the existing boundary wall, which impedes sightlines to oncoming pedestrians, shall be removed. The boundary walls, piers, including capping and gate shall not exceed 1.0m in height.</p> <p>d. The developer shall ensure that any planting within the proposed development does not interfere with sightlines.</p> <p>Reason: In the interest of pedestrian and traffic safety and orderly development.</p>
5.	<p>Prior to commencement of development the applicant shall locate and protect any Irish Water services within the site. There shall be no building over watermains, common pipes, or sewers and if found the developer must contact Irish Water with a proposal for altering, in accordance with Irish Water requirements.</p> <p>Reason: In the interest of public health and orderly development.</p>

6.	<p>Surface water drainage arrangements from roofs, entrances and parking areas shall comply with the requirements of the planning authority for such services and works.</p> <p>Reason: In the interest of public health.</p>
7.	<p>Details of the external finishes of the proposed development shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interest of visual amenity.</p>
8.	<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 as amended 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>

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

24th May 2024

Appendix 1

Relevant policies and objectives

Limerick City and County Development Plan 2022-2028

Policy CGR P1 Compact Growth and Revitalisation

It is a policy of the Council to achieve sustainable intensification and consolidation, in accordance with the Core Strategy, through an emphasis on revitalisation and the delivery of more compact and consolidated growth, integrating land use and transport, with the use of higher densities and mixed use developments at an appropriate scale on brownfield, infill, backland, state lands and underutilised sites within the existing built footprint of Limerick's City, Towns and Villages

3.3.1.4 Infill sites

The Planning Authority will encourage the appropriate development of infill sites in accordance with the Development Management Standards of this Plan. However, in certain limited circumstances the Planning Authority may consider a justified relaxation of planning standards in the interest of achieving sustainable compact growth. Infill developments should be appropriate to the character of the streetscape, enhancing its context and integrating with its surroundings. In this regard, infill development should respect and complement the prevailing scale of the built environment while ensuring the preservation of the amenities of adjoining residential properties.

Objective CGR 03 Urban Lands and Compact Growth

It is an objective of the Council to:

- a) Deliver 50% of new homes within the existing built-up footprint of Limerick City and Suburbs (in Limerick), Mungret and Annacotty and 30% of new homes within the existing built-up footprint of settlements, in a compact and sustainable manner in accordance with the Core and Housing Strategies of this Plan.
- b) Encourage and facilitate sustainable revitalisation and intensification of brownfield, infill, underutilised and backland urban sites, subject to compliance with all quantitative and qualitative Development Management Standards set out under Chapter 11 of this Plan.

Zoning

Existing Residential

Objective: To provide for residential development, protect and improve existing residential amenity.

Purpose: This zone is intended primarily for established housing areas. Existing residential amenity will be protected while allowing appropriate infill development. The quality of the zone will be enhanced with associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area, such as schools, crèches, doctor's surgeries, playing fields etc.