



An
Bord
Pleanála

Inspector's Report

ABP-318720-23

Development	The construction of a two storey dwelling and all associated site works
Location	Marian Avenue, Roxboro Road , Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2360239
Applicant(s)	Eric Byrnes
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Eric Byrnes
Observer(s)	None
Date of Site Inspection	16/02/24
Inspector	Adrian Ormsby

1.0 Site Location and Description

- 1.1. The site has a stated area of 0.012 ha and is located on the junction of Marian Avenue and O'Donoghue Avenue both of which connect to the Roxborough Road c 1.5km south of Limerick City Centre.
- 1.2. The site appears to be a triangular shaped side garden/entrance driveway to the side of an existing two storey hipped roof style house known as 'Mingara'. Its boundary to the public path includes high wall and poorly maintained entrance gates. The site is poorly maintained and in its current condition detracts from the residential nature of the area.
- 1.3. The north west boundary of the site includes an existing semi detached two storey house with single storey side annex coming to the boundary of the application site. This house is No. 36 Marian Avenue.
- 1.4. The site opposes a small green area with the 'Janeboro Marian Shrine'. The 'Our Lady Queen of Peace Church' is located across the Roxborough Road generally facing the site.

2.0 Proposed Development

- 2.1. The application comprises-
 - Subdivision of existing residential property- including side garden (poorly maintained and not used) and existing vehicular entrance
 - the construction of a detached two storey two bedroom dwelling, 78 sq.m and 7.156m high.
 - the proposed house is triangular in shape
 - new boundary treatment,
 - revisions to site entrance,
 - and all associated site works
- 2.2. The Planning Authority sought Further Information (FI) on the 08/06/23 seeking-
 - Revised proposals compatible with the shape and size of the site with provision for a partial first floor and high quality and useable amenity space

with serious consideration suggested to a contemporary design with high quality finishes.

- The revised proposal should include suitably scaled cross sections, clearly outlining existing and proposed levels with revised contiguous elevations.
- A topographical survey of the site with sufficient detail and background mapping to clearly demonstrate that sightlines and stopping sight distances of 24m can be achieved. Proposals to address any boundary requiring setback of adjoining landowners with consent as necessary.
- Surface water drainage proposals.

2.3. The applicant submitted revised proposals on the 26/10/23 to include

- A dwelling attached to existing detached two storey hipped roof house known as 'Mingara'
- Revised house is storey and a half/dormer style 6.19m high and 78sq.m, also triangular shaped in layout providing two bedrooms.
- The revised proposal was readvertised as significant further information.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority refused permission on the 22/11/23 for one reason as follows-

"It is considered that the proposed development by reason of its size and scale relative to the existing site would result in overdevelopment of the site and would provide inadequate private open space for residents of the development and would negatively impact the residential amenity of the neighbouring dwelling. The proposed development by the precedent it would create for similar type development would be seriously injurious to the visual and residential amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area."

4.0 Planning Authority Reports

4.1. Planning Reports

The reports of the Planning Officer generally reflect the decision of the Planning Authority.

4.2. Other Technical Reports

- Roads-
 - (12/05/23)- Further Information required
 - (14/11/23)- Conditions recommended

4.3. Prescribed Bodies

- Uisce Eireann-
 - 06/05/23- No objections

4.4. Third Party Observations

- One submission received raising concerns over-
 - Visual impact of proposal
 - Proximity of proposal to No. 36 Marian Avenue and impacts to shared boundary
 - Impacts upon existing residential amenity
 - Surface water run off
 - Inaccurate drawings

5.0 Planning History

- None

6.0 Policy Context

6.1. Development Plan

6.2. Limerick City and County Development Plan 2022-2028

- The site is zoned 'Existing Residential' with-

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.

- The following Development Management Standards are considered relevant-
 - Section 11.3.7 and Table DM3 deals with Private Open Space and details a requirement for 1-2 bedroom houses of 48 sq.m minimum rear garden area. It also highlights "*Narrow strips of incidental open space to the side of houses should not be included in private open space calculations*". This requirement may be relaxed in exceptional circumstances including proximity to a public park or amenity. However the plan is clear that such deviations including for infill development should not compromise amenity of the residents and any deviation from the above standards shall be accompanied by a written statement justifying the deviation and shall include mitigation/compensatory design features to ensure amenity is not compromised.
 - Section 11.4.2 Residential Quality Standards – Houses
 - Section 11.4.2.2 Floor Areas- "*The minimum size of habitable rooms for houses shall conform with national guidelines/standards in operation at the date of application for planning permission, including*

the minimum dimensions as set out in Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (2020) and Quality Housing for Sustainable Communities: Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).”

- Section 11.4.2.3 Aspect and Natural Light
- Section 11.4.4.3 Corner/Side Garden Sites
 - *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.*

6.3. Ministerial Guidelines

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

- SPPR2- Minimum Private Open Space Standards for Houses-

It is a specific planning policy requirement of these Guidelines that proposals for new houses meet the following minimum private open space standards:

1 bed house 20 sq.m

2 bed house 30 sq.m

3 bed house 40 sq.m

4 bed + house 50 sq.m

A further reduction below the minimum standard may be considered acceptable where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50 percent of the area being provided as private open space (see Table 5.1 below). The planning authority should be satisfied that the compensatory semi-private open space will provide a high standard of amenity for all users and that it is well integrated and accessible to the housing units it serves.

Apartments and duplex units shall be required to meet the private and semiprivate open space requirements set out in the Sustainable Urban Housing: Design Standards for New Apartments, Guidelines for Planning Authorities 2023 (and any subsequent updates).

For building refurbishment schemes on sites of any size or urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) the private open space standard may be relaxed in part or whole, on a case-by-case basis, subject to overall design quality and proximity to public open space.

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.

This SPPR will not apply to applications made in a Strategic Development Zone until the Planning Scheme is amended to integrate changes arising from the SPPR. Refer to Section 2.1.2 for further detail.

- Table 5.1 Minimum Private Open Space Standard for Houses 2 bed 30 sq.m, Max Semi-private (in lieu) 15 sq.m
- SPPR 3 Car Parking- Maximum of one space for Limerick.

6.4. Natural Heritage Designations

- The site is c. 1.5 km south east of the Lower River Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077)
- The site is c. 1.6 km south east of the Fergus Estuary and Inner Shannon North Shore pNHA (000435).

6.5. EIA Screening

6.5.1. See Appendix 1- Forms 1 and 2.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of this first party appeal can be summarised as follows-

- The site is a large vacant site which is not of much use other than to provide a house. The proposed house will have an uncomplicated shape with no windows overlooking neighbours sites.
- The applicant was requested to submit a revised design at Further Information stage to provide. It was proposed to adjoin the existing house owned by the applicant. The revised proposal was storey and a half with ridge height

reduced to 6.19m. Other revisions were made to private amenity space and the vehicular entrance.

- The refusal considers the proposal overdevelopment. The proposed house takes up 42.7% of the site. The proposed floor area is 84.4 sq.m which exceeds the requirement for a 2 bedroom apartment of 73 sq.m.
- Reference is made to permission for a similar dwelling permitted by An Bord Pleanála under ABP-311885-21 in close proximity to the site. Drawings of this accompany this appeal.

7.2. Planning Authority Response

- None

7.3. Observations

- None

8.0 Assessment

8.1. Introduction

8.1.1. I have examined the application details and all other documentation on file. I have inspected the site and have had regard to relevant local/regional/national policies and guidance. I consider that the substantive issues for this appeal are as follows-

- Principle of Development
- Refusal Reason 1
- Other
- Appropriate Assessment

8.2. Principle of Development

8.2.1. The site is zoned 'Existing Residential ' with an objective to *'To provide for residential development, protect and improve existing residential amenity.* The application proposes one house to the side of an existing residential property on suitably zoned

lands. Subject to further assessment below and having regard to the above zoning objective, the proposed development of one house at this location is acceptable in principle.

8.3. Refusal Reason

8.3.1. The Planning Authority's refusal reason considers the proposal would be seriously injurious to the visual and residential amenities. It details the proposal provides inadequate private open space for residents of the development and as a result is overdevelopment of the site. It also considers the proposal would negatively impact the residential amenity of the neighbouring dwelling.

8.3.2. The Board should note the proposal as submitted at Further Information stage revises the design of the house from detached to a now attached house to the side of the existing house known as 'Minagra'. The red line boundary of the application site does not appear to have been amended to reflect this change. However it is noted the existing house is identified within the blue line identifying the applicants landholding on the original site layout drawing submitted.

Proposed residential amenity and overdevelopment

8.3.3. The application as revised at Further Information stage provides for a more contemporary style house. It provides two bedroom over and a kitchen living room over two floors.

8.3.4. Section 11.3.7 and Table DM3 of the Limerick Development Plan 2022-28 (LDP) deals with Private Open Space and requires 48 sq.m minimum rear garden area for 1-2 bedroom houses. I note the LDP does make provisions for exemptions to this but such deviations should not compromise amenity of the residents

8.3.5. Since the making of this application and the decision of the Planning Authority the 'Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024' (SRDCS) have come in to effect. SPPR2 of these guidelines require 30 sq.m of private amenity space for a 2 bed house. They also provide for a further reduction below the minimum standard where an equivalent amount of high quality semi-private open space is provided in lieu of the private open space, subject to at least 50 percent of the area being provided as private open space.

- 8.3.6. The Further Information submission provides a very small triangular shaped area to the rear of the house. The size, shape and orientation of this area does not provide adequate private amenity space for the two bedroom house proposed.
- 8.3.7. The Appeal indicates provision of 65.3 sq.m of private open space between the front and rear gardens. The proposal provides a large area of brick paving to the front of the house which would appear to be intended for vehicular parking. It is not considered private amenity space or semi-private amenity space. Nor would I consider this area suitable in the context of the private amenity space reduction provided for under the SRDCS guidelines.
- 8.3.8. I note the guidelines also makes further provision for a relaxation of private amenity space standards for urban infill schemes on smaller sites (e.g. sites of up to 0.25ha) on a case-by-case basis, subject to overall design quality and proximity to public open space with the obligation on the project proposer to demonstrate that residents will enjoy a high standard of amenity. The design and layout of the proposed development does not suggest that future residents will enjoy a high standard of amenity.
- 8.3.9. The proposed development does not comply with SPPR 2 of the SRDCS guidelines. While non compliance with this mandatory requirement does not form part of the Planning Authority's refusal reason before the requirement came into effect, in my opinion the matter is the same as that which the council have refused and in this context does not require consideration as a new issue. But the Board may wish to consider otherwise and seek the views of the parties.
- 8.3.10. I have not been able to identify a rear elevation drawing, but from the floor plans submitted the proposal provides for one north facing window and door to the kitchen area. Given the shape and narrow nature of the private amenity space and the layout of the ground floor plan, it is unlikely the kitchen area would receive adequate daylight and sunlight and thereby the proposal provides a poor standard of residential amenity.
- 8.3.11. On the basis of the information submitted in support of the application and appeal, I consider that the proposed development by reason of its poor quality design, layout and limited quantum and quality of private open space provision would provide a poor standard of residential amenity for future occupants of the development. I also

agree with the Planning Authority that the proposal represents overdevelopment of the site. This application should be **refused**.

Existing Residential amenity

8.3.12. The design and layout of the house requires a triangular shape along the boundary of No. 36 Marian Avenue a property which is not in the applicants ownership. The proposed house extends c. 6.3 along this boundary with the majority protrude forward at an angle off the front building line and side annex to No. 36 at a height of c. 6.19m. I am also not convinced the FI contiguous elevation drawing adequately reflects the impact of the development upon No.36.

8.3.13. In this context, the proposed development does not respect the established building line of Marian Avenue and would leave a visually dominant, overbearing and obtrusive side gable wall excessively visible to residents of No. 36 and thereby unduly impacting their existing residential amenity. This application should be **refused**.

Visual Amenity

8.3.14. In terms of visual amenity the application site is located in a prominent location at the junction of Marian Avenue and O'Donoghue Avenue both of which are just off Roxborough Road. The site is located in close proximity to a visually aesthetic green area with the 'Janeboro Marian Shrine' and across the road from 'Our Lady Queen of Peace Church'.

8.3.15. The proposed development, notwithstanding the revisions made at Further Information stage, would not contribute positively to the character of the sites location between Marian Avenue and O'Donoghue Avenue. Furthermore, It would not be visually harmonious with the wider character of the area. It is considered a cramped form of development, that does not respect established building lines and would be visually incongruous and obtrusive in this setting which would unduly detract from the existing visual amenity of the area and overall would be contrary to the 'Existing Residential' zoning objective for the site which seeks to inter alia protect and improve existing residential amenity . This application should be **refused**.

8.4. Other

- 8.4.1. I note the applicants reference to permission granted for a house by An Board Pleanála under ABP-311885-21 in close proximity to the site. I inspected this site during my site visit and have reviewed the planning file on-line. I am satisfied the circumstances of that site and the subject appeal are not directly comparable and do not form the basis of a precedent which the Board should apply to the subject appeal.

8.5. Appropriate Assessment

- 8.5.1. Having regard to the nature and scale of the proposed development within a fully serviced urban area and its location relative to Natura 2000 sites, no Appropriate Assessment issues arise, and it is not considered that the proposal would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

9.0 Recommendation

- 9.1. I recommend that permission is refused for the following reason-

10.0 Reasons and Considerations

1. The proposed development by reason of its poor quality design, layout and limited quantum and quality of private open space is considered overdevelopment of the site that would provide a poor standard of residential amenity for future occupants of the development and which would be contrary to Specific Planning Policy Requirement 2 of the Sustainable Residential Development and Compact Settlements Guidelines for Planning Authorities 2024.

Furthermore, having regard to the design and layout of the proposed development, its proximity to site boundaries and breaches of the established building line to Marian Avenue, it is considered that the proposed development would comprise a visually incongruous and dominant feature that would have significant negative impacts on the existing residential

amenity of No 36 Marian Avenue by way of visual prominence, overbearing and obtrusiveness.

The proposal would also be injurious to existing visual and residential amenities of the wider area, would be contrary to the existing residential zoning objective of the site as set out in the Limerick City and County development Plan 2022-2028 and would therefore be contrary to 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.

Adrian Ormsby
Planning Inspector

18th of February 2024

Appendix 1 - Form 1

EIA Pre-Screening [EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318720-23		
Proposed Development Summary	One house		
Development Address	Corner of Marian Avenue and O'Donoghue Avenue, off Roxborough Road, Limerick.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)			Yes
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?			
Yes			EIA Mandatory EIAR required
No	x		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	Conclusion
			No EIAR or Preliminary Examination required
Yes	x	Class 10 Infrastructure (b) (i)- Threshold- 500 dwelling units (d) Threshold- Urban Development- involve an area greater than 2 hectares in the case of a business district, 10 hectares in the case of other parts of a built-up area and 20 hectares elsewhere	1 house Site area- 0.012 ha
			Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	x	Preliminary Examination required	
Yes		Screening Determination required	

Form 2- EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP-318558-23	
Proposed Development Summary	One house	
Development Address	Corner of Marian Avenue and O'Donoghue Avenue, off Roxborough Road, Limerick.	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	One house in urban area connecting to public waste and water services.	No No
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment? Are there significant cumulative considerations having regard to other existing and/or permitted projects?		No No
Location of the Development Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?	A proposal for one house at this location in a built up urban area does not have the potential to impact significantly upon such sites. No	No No
Conclusion		

There is no real likelihood of significant effects on the environment. EIA not required.	There is significant and realistic doubt regarding the likelihood of significant effects on the environment. N/A.	There is a real likelihood of significant effects on the environment. N/A
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Inspector: _____

Date: 18/02/24