



An
Bord
Pleanála

Inspector's Report ABP-319441-24

Development	Renovations to existing house and all other associated site works.
Location	Saint Martha's, Clanmaurice Avenue, North Circular Road, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2360839
Applicant(s)	Brian Ahern and Clodagh Ahern
Type of Application	Permission
Planning Authority Decision	Grant with conditions
Type of Appeal	Third Party
Appellant(s)	Edward and Catherine McMahon
Observer(s)	None
Date of Site Inspection	31 July 2024
Inspector	Natalie de Róiste

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1.0 Site Location and Description

- 1.1. The subject site is located on the north side of Clanmaurice Avenue, in a mature residential area in Limerick city. The site contains a three-bay two-storey end-of-terrace house with a single-storey rear extension, and with front and rear gardens and a driveway entrance. The rear garden boundaries are largely made up of mature hedging c. 2 metres in height, with a masonry wall between the houses on the west boundary.

2.0 Proposed Development

- Construction of a part two-storey, part-single-storey rear extension to house, facilitated by demolition of existing single-storey extension.
- Alterations to front elevation
- All associated site works.

3.0 Planning Authority Decision

3.1. Decision

Grant of permission, subject to 8 conditions (none amending). Condition 3 states that any boundary proposed for replacement shall be a block wall capped and plastered on both sides.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Report dated 11.02.23 (this appears to be a typo, and should read 11.02.24). The principle of development is acceptable in the 'existing residential' zoning. Complete redesign is required to be subservient to the main dwelling, appropriate to an end-of-terrace dwelling, and to give consideration to potential for impact of the proposed bulk and scale on adjoining neighbours. Further Information requested including daylight and sunlight report, information on boundary interface and drainage, and revised designs.

- Report dated 12.03.24 following submission of further information reducing the depth of the rear extension from 4.9 metres to 4.0 metres, and setting the ground floor extension back from the east boundary by 400 mm – revised plans and further information considered acceptable, overshadowing is reduced, unavoidable, and acceptable in an urban context. Grant of permission recommended.

3.2.2. Other Technical Reports

- Environment Section: in the event of a grant, conditions should be attached.

3.3. Prescribed Bodies

Uisce Éireann – report received with observations.

3.4. Third Party Observations

Two third party observations were received.

Eamon Woods and Brid Heffernan (adjoining mid-terrace house to east)

- Oversized extension with negative impact on sunlight, daylight, and views
- Construction on boundary will interfere with box hedge, oversail boundary and drain onto neighbouring property

Edward and Catherine Mc Mahon (neighbouring house to west)

- House previously extended twice, proposed extension out of character due to size, massing and bulk.
- No consultation with neighbours, noted that applicants are not long-term residents
- Will impact the special character of the estate due to intensified scale and dominant appearance
- proposal will destroy peace and tranquillity and privacy of rear garden
- Single-storey extension (tastefully designed) would be appropriate
- The hedge should be removed, and a two-metre concrete block boundary wall should be constructed along boundary prior to other construction works

- Site notices inaccurate

Photographs were provided with this observation, showing views of the subject site from the third party's garden.

4.0 Planning History

- On appeal site

07/770152 Retention permission for open porch granted subject to conditions.

94770181 Permission for 2-storey extension to side of house granted subject to conditions.

- Recent and relevant on adjacent sites – the applicant has put forward the following as precedent

'Prague', Clanmaurice Avenue, North Circular Road, Limerick.

18/1176 – permission granted for a two-storey side and rear extension subject to conditions.

2 Clanmaurice Ave., North Circular Road, Limerick.

18/357 – permission granted for a two-storey rear extension subject to conditions.

'Cill Cais', Clanmaurice Avenue, North Circular Road, Limerick.

22/1332 – permission granted for a three-storey rear extension subject to conditions.

5.0 Policy Context

5.1. Limerick Development Plan, 2022-2028

Land Use Zoning – Existing Residential

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

Objective HO O3 Protection of Existing Residential Amenity

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.

Section 11.4.4.1.1 Front Extensions

This section notes that porch extensions should be of appropriate design and scale and not dominate; front extensions are acceptable in principle subject to appropriate design.

Section 11.4.4.1.2 Rear/Side Extensions

This section notes that ground floor extensions will be considered in terms of their size, proximity to boundaries, and remaining useable open space. First floor extensions will only be permitted where there will be no significant negative impacts on surrounding amenities, with overshadowing, overbearing, and overlooking additional considerations

5.2. **Natural Heritage Designations**

Lower River Shannon SAC, c. 300 metres south and east.

5.3. **EIA Screening**

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

6.0 **The Appeal**

6.1. **Grounds of Appeal**

One third party appeal received, from Edward and Catherine Mc Mahon of Ripley Villa (the neighbouring house to the west). Issues can be summarised as follows:

- Development will have serious impact on their property and health, significantly overshadowing their property and will cause great distress
- Have until now enjoyed peace, tranquillity, and ample sunlight in garden

- Submissions to council have been ignored – these are enclosed, including a submission which was not accepted by the council following lodgement of revised plans
- Concerns expressed by the council regarding bulk and scale of the two-storey extension were not properly addressed and only minimal alterations made
- No objection to renovation and extension in principle; scale, bulk, and overlooking are the issues

6.2. **Applicant Response**

The applicant responded as follows:

- The two-storey element was reduced following a request for further information, is in line with the existing single-storey extension, and behind the rear building line of appellant's rear extension
- Appellants' statement re duration of residency (in original submission) are vexatious and not a material issue. Extension is required for growing family
- Both the ground floor and first floor elements of the extension comply with Development Plan Section 11.4.4.1.2 (rear/side extensions). Daylight and Sunlight Analysis have been carried out, and impacts are shown to be limited and acceptable in an urban context. Ample private open space remains. There is no encroachment or overhanging on neighbouring properties. There is no impact on the streetscape.
- Overlooking is minimal, with a single window proposed in the west elevation. This is not a habitable room, and could be obscured or omitted by condition.
- The pitched roof could be replaced with a flat roof, should the Board deem it necessary
- No objection to construction of a two-metre boundary wall at the outset of construction
- There is precedent for such two-storey extensions (18/1176, 18/357, and 22/1332 refer)

- A schedule of works is submitted, showing an eight-week program for demolition and site establishment works.

6.3. **Planning Authority Response**

None received

6.4. **Observations**

None received

6.5. **Further Responses**

None received

7.0 **Assessment**

7.1. I have examined the application details, and all other documentation on file, including the appeal. I have inspected the site, and have had regard to relevant local/regional/national policies and guidance. I note that the appeal refers to an unsolicited submission that the appellant submitted to the council; this submission was not submitted with the appeal, nor was it submitted by the local authority. However, there is sufficient information on file to make an assessment.

7.2. The main issue for this appeal is one of residential amenity, which can be further broken down under the following subheadings:

- overlooking;
- overshadowing;
- impacts on daylight;
- overbearing impacts and impacts on neighbouring visual amenity

7.3. **Overlooking**

7.3.1. This is an application for a rear extension to an end-of-terrace house. The appellants reside in the neighbouring house to the west, a detached dormer bungalow with a rear extension.

- 7.3.2. A number of windows are proposed in the ground floor of the west elevation, facing the boundary with the appellant's garden at minimum c. 1.5 metres distance. Subject to appropriate boundary treatments, these ground floor windows will have no undue amenity on neighbouring privacy. The appellant has requested a 2-metre concrete block wall be built, and the applicant has indicated a willingness to do so. This could be addressed by condition in the event of a grant, and is discussed further below.
- 7.3.3. At first floor, there are three proposed windows, to light the bedroom, the ensuite, and the walk-in wardrobe. Two of these windows (the bedroom and the ensuite) look down the length of the garden. Given the existing suburban context, these windows will not have any undue overlooking impacts. The appellant's garden is already visible from the bedroom windows of the neighbouring two-storey houses on either side.
- 7.3.4. The window to the walk-in wardrobe faces west, at a distance of 1.8 metres from the boundary. As such, this window has potential for undue overlooking, due to its orientation and proximity to the boundary, notwithstanding that it doesn't serve a habitable room. It would directly overlook part of the appellant's garden beside their rear extension. The Local Authority did not attach any condition to obscure this window (or the ensuite window). The applicant has noted in their response a willingness to omit or obscure the window to the walk-in wardrobe, and in an earlier unsolicited submission to the council, suggested replacing it with a skylight. A skylight would prevent both overlooking, and the perception of overlooking, and would provide adequate daylight and ventilation, with the added benefit of allowing additional wall space for storage within the walk-in wardrobe. I recommend a condition to this effect in the event of a grant of permission.

7.4. Overshadowing

- 7.4.1. The applicant submitted a daylight and sunlight study prepared by H3D as part of their further information submission. This includes shadowpath diagrams which show that the appellant's garden would experience some additional overshadowing at 10 am on both the Spring and Autumn equinoxes, and a very small area of additional overshadowing on the Summer solstice at this hour. However, this overshadowing would clear entirely by noon. Regarding winter overshadowing, it is evident that the gardens are heavily overshadowed by the existing houses and boundary walls on

the winter solstice, due to the low angle of the sun in winter, and the impact from the additional extension is negligible.

7.4.2. The study also contains a diagram (figure 1 of that study), that shows the area of the appellant's garden that receives at least 2 hours of sunlight on March 21st would be reduced from approximately 98.5% of the garden to 95.5% of the garden. This diagram erroneously omits the area closest to the appellant's house from the amenity area measured. However, the shadowpath diagrams indicate this area is already overshadowed by the existing houses, and minimal additional overshadowing will occur here.

7.4.3. I am satisfied that the overshadowing impacts on the appellant's garden will be minor and acceptable, limited to the morning only, and will not unduly impact on their residential amenity or the enjoyment of their garden. The impacts on the adjoining terraced property to the west (San Antonio) would be greater; however, these impacts are still within an acceptable level in this inner suburban context, particularly for north-facing gardens, and as such I have no concerns in relation to the residential amenity of this property.

7.5. Daylight

The daylight and sunlight study has assessed the Vertical Sky Component (VSC) of neighbouring windows. This is an indicator of the diffuse daylight received by a window, and is a particularly significant measure in north-facing rooms which receive little or no direct sunlight. The study indicates that daylight to all windows will be affected, but only to a small degree. All rooms will continue to enjoy good daylight. The impacts are likely to be imperceptible.

7.6. Overbearing impacts and impacts on neighbouring visual amenity

No contiguous rear elevations have been submitted. Regarding the appellant's property, due to the mutual setbacks from the boundary, there will be no overbearing impacts on views from that house. The neighbouring extension will obviously be visible from the house (particularly from the rear extension) and from the garden. This is clear from the photos submitted with the objection, but it will not be overly obtrusive. The character of the extension is similar to that of the existing house, and neither the height, the depth, or the width of the extension are excessive.

- 7.7. Other matters raised in the appeal
- 7.8. Boundary treatment
- 7.8.1. The existing boundary consists of a mature hedge to the rear of the house, with a masonry wall of varying height between the houses. The appellant (in their original submission) requested that the existing boundary hedge be removed and a two-metre concrete block wall be built for the full length of the boundary. The planning authority condition 3 dictated the materials of any replacement boundary (block wall capped and plastered on both sides), but had no requirement regarding the height. As a result, this condition is both inflexible regarding materials, and insufficient to address the appellant's concerns regarding privacy. A boundary of appropriate height should be provided to ensure mutual privacy, given the proximity of west-facing ground floor windows to the western boundary. However, a timber fence, a brick wall, or the retention of the existing hedge, would also adequately address the privacy requirements, with the retention of the hedge providing ecological benefits. I recommend an appropriate condition be attached to ensure a boundary of sufficient height is provided along the length of the boundary, without unduly dictating the materials of that boundary.
- 7.9. Advertisement and consultation
- 7.9.1. The appellant notes (in their original submission) that the applicant did not consult them prior to lodgement of the application; that the applicants are not long resident in the area; and that the development was not adequately described in the public notices. The duration of residence of the applicants is not a planning matter. The planning notices describe the development as 'part two-storey part single-storey extension to rear of house' which the appellant considers to be misleading, as the proposal consists of a two-storey extension and a single-storey extension.
- 7.9.2. I consider the description of development to be accurate; part of the rear extension is two-storey, and part of it is single-storey. I further note that (while it is good practice to inform neighbours of upcoming works), the appellants were adequately informed by the public notices, as evidenced by their submission and subsequent appeal.

8.0 Appropriate Assessment

- 8.1. Having regard to the nature and small scale of the proposed development and the distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on any European site.

9.0 Recommendation

I recommend a grant of permission with the following conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the provisions of the Limerick Development Plan 2022-28, and the scale, nature and suburban context of the residential development, it is considered that the proposed development, subject to compliance with the conditions set out below, would not seriously injure the residential or visual amenities of the area.

11.0 Conditions

1. 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 the 20th day of February 2024, 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.

Reason: In the interest of clarity.

2. The proposed development shall be amended as follows:

(a) The first-floor window in the west elevation of the extension shall be omitted, and shall be replaced by a rooflight, located in the west facing slope of the roof.

(b) A boundary treatment of 2.0 metres in height shall be provided along the length of the western boundary.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interests of residential amenity, to avoid undue overlooking, and to ensure mutual privacy.

3. 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, as amended. The contribution shall be paid prior to 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 An Bord Pleanála to determine the proper application of the terms of the Scheme.

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.

4. The external finishes of the proposed extension (including roof tiles/slates) shall match those of the existing dwelling in respect of colour and texture.

Reason: In the interest of visual amenity.

5. The glazing to all bathroom and en-suite windows shall be manufactured opaque or frosted glass and shall be permanently maintained. The application of film to the surface of clear glass is not acceptable.

Reason: In the interest of residential amenity.

6. Site development and building works shall be carried out between the hours of 7 a.m to 7 p.m. Mondays to Fridays inclusive, between 8 a.m. and 2 p.m. on Saturdays and not at all on Sundays and public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written agreement has been received from the planning authority.

Reason: To safeguard the amenity of property in the vicinity.

7. The disposal of surface water shall comply with the requirements of the planning authority for such works and services.

Reason: To prevent flooding and in the interests of sustainable drainage.

8. Prior to the commencement of any construction works, the applicant shall locate and protect any Uisce Éireann services within the site. There shall be no building over water mains, common pipes, or sewers, and if found the applicant shall contact Uisce Éireann with a proposal for alterations at the cost of the applicant.

Reason: to protect Uisce Éireann assets.

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.

Natalie de Róiste
Planning Inspector

12 August 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-319441-24		
Proposed Development Summary	Renovations to existing house and all other associated site works.		
Development Address	Saint Martha's, Clanmaurice Avenue, North Circular 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	✓
		No	No further action required
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		Class.....	EIA Mandatory EIAR required
No	✓		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)
			Conclusion
No	✓	N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4
4. Has Schedule 7A information been submitted?			
No	✓	Preliminary Examination required	
Yes		Screening Determination required	

Inspector: _____

Date: _____