



An
Bord
Pleanála

Inspector's Report ABP-320822-24

Development	Construction of a two storey extension and all associated site works.
Location	Dromsally, Cappamore, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2460018
Applicant(s)	Michael O'Malley.
Type of Application	Permission.
Planning Authority Decision	Grant, subject to conditions.
Type of Appeal	Third Party
Appellant(s)	Bernard and Kathleen Ryan.
Observer(s)	None.
Date of Site Inspection	1 st February 2025.
Inspector	Terence McLellan

1.0 Site Location and Description

- 1.1. The appeal site refers to a detached two-storey dwellinghouse set in generous garden ground and located just outside Cappamore village in east County Limerick. The plot is rectangular in shape, orientated north/north-west and has a vehicular entrance onto the R-506 regional road. The subject dwelling is the last in a ribbon on the south side of the R-506 extending from Cappamore and Tower Hill Road to the east. The neighbouring dwellings are also detached and two storey in height, set in similar sized plots. The boundary between the subject dwelling and the neighbouring dwelling to the east is marked by mature hedgerows.

2.0 Proposed Development

- 2.1. Planning permission is sought for a two storey rear extension finished in similar materials to the host dwelling. The proposed extension would have a pitched roof with a height of 6,940mm to ridge level, a maximum depth of 6,700mm and a maximum width of 8,830mm.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. Notification of the Decision to Grant Permission was issued by Limerick City and County Council on the 28th August 2024 subject to four standard conditions, including development contributions.

3.2. Planning Authority Reports

- 3.2.1. The first Planner's Report was issued on the 21st February 2024 and requested Further Information regarding the existing wastewater treatment system, including a walkover survey of the site to establish the location of the septic tank percolation area/soakaway, the presence or absence of a distribution box and ventilation pipes, an inspection of drains or streams bounding the site for evidence of any discharge, a survey for any signs of ponding on site and a visual inspection of the septic tank including establishing satisfactory operation and capacity. Further Information was

also requested from the Applicant to address the Third Party submission regarding sunlight.

- 3.2.2. Further Information was submitted on the 7th August 2024 addressing the wastewater treatment issues in a report from Pádraig Cahill (Site Suitability for Wastewater Treatment). A report from Denis J. O'Malley Chartered Engineer addressed the sunlight concerns. The second Planner's Report was issued on the 28th August 2024 and considered the Further Information request to have been satisfactorily addressed. Permission was then granted subject to four standard conditions.

Other Technical Reports

- 3.2.3. An internal report was issued on the 12th August 2024, confirming that the Further Information walkover survey was acceptable. The report does not state which department it comes from, it is presumed to be from the drainage or engineering services department.

3.3. Prescribed Bodies

- 3.3.1. None.

3.4. Third Party Observations

- 3.4.1. One observation was made on the planning application by the Appellant. This observation raises the same issues as those covered in the grounds of appeal, set out in detail in section 6 below.

4.0 Planning History

- 4.1.1. There is no planning history that is of immediate relevance to the current appeal.

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

11.4.4.1.2 Rear/Side Extensions

5.1.1. 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.

5.2. Natural Heritage Designations

5.2.1. None of relevance.

5.3. EIA Screening

5.3.1. The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of this report.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A Third Party appeal has been received from Bernard and Kathleen Ryan who live in the neighbouring house to the east. The grounds of appeal can be summarised as follows:

- The extension would block sunlight to the patio and reduce the amount of natural sunlight entering the windows and door at the rear of the dwelling.

- The development would have an adverse visual impact due to the height of the proposed extension, which will be visible from the patio and rear windows.
- There would be no objection to a flat roof.
- Inaccurate information was provided by the Applicant regarding the height of the boundary hedgerow, revised drawings are included in the grounds of appeal showing the actual height of the hedgerow.
- The Sunlight Availability Assessment submitted by the Applicant was for a day in March and does not relate to the time period highlighted in the objection (May to August and the 21st June).

6.2. Applicant Response

6.2.1. A First Party response was submitted by Denis J. O'Malley Chartered Engineer on the 14th October 2024 and is summarised as follows:

- The BRE standard has been used to measure the available sunlight and it can clearly be seen that the proposed development is above the 10 degree line in relation to the adjoining garden and is not considered to have any effect on sunlight availability.
- The required and accepted BRE standard requires assessment on the 21st of March. The Appellants have submitted screenshots from a non-referenced website of unknown origin.
- The hedgerow was measured accurately on the 14th of March 2024, submitted with the planning application. The Appellants subsequently cut the hedgerow which has lowered parts of it by approximately 600mm and this would make a small section of the roof of the extension more visible.
- It would be impossible for the Applicant to design an extension based on what height the Appellant may or may not decide to maintain their hedgerow at.

6.3. Planning Authority Response

6.3.1. No response on file.

6.4. Observations

6.4.1. None.

6.5. Further Responses

6.5.1. A further response was received by the Appellants on the 31st October 2024.

- The concern relates to sunlight entering the back of the house and the patio area, not the garden.
- The BRE standard of 21st March is noted but irrelevant and not the time period of concern. March is not a time for patio activities in Ireland and the sun would already have set.
- Various issues raised regarding maintenance of the hedgerow.
- The extension, due to its height, depth, and design, would block sunlight to the rear of the house and patio. This would impact on an amenity enjoyed for 35 years.
- A flat roof would not have the same impact.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the development plan, I consider that the substantive issue to be considered in this appeal is the matter of visual and residential amenity.

7.2. The Appellants consider that the proposed extension, due to its height, scale and design, would have an adverse impact on visual and residential amenity. It is stated that the extension would reduce the availability of sunlight to the patio area and the rear of the Appellants' dwelling from May to August and that this would adversely affect amenity. The Appellants contend that there would also be an adverse visual impact as the extension would be in view from their rear windows and patio area.

Visual Impact

- 7.3. The Appellants consider that the extension would have an adverse impact on their visual amenity due to scale, massing, design and visibility. I note the Appellants' claims regarding inaccurate information being provided by the Applicant regarding the height of the boundary hedgerow, however I consider this to be unfounded and it is clear that the height of the hedgerow will change from time to time dependant on ongoing maintenance. Revised drawings/photomontages were submitted by the Appellant to demonstrate visibility of the extension over the hedge. However, I would caution the Board that these drawings/images are not verified, and no scale is provided and as such there is no way to clarify their accuracy.
- 7.4. The proposed extension would be 6,940mm in height to ridge level, with the eaves height matching that of the host dwelling. The proposed extension would be set back from the existing eastern flank elevation of the host dwelling by 2,550mm. At the closest point, the proposed extension would be set back 12.7 metres from the boundary with the Appellants' property and c. 17.6 metres from the flank elevation of the Appellant's dwelling. As the extension reduces in width, the separation distance of the extension to the boundary with the Appellant's property increases to 16.6 metres.
- 7.5. In my view, whilst the extension may be visible from the Appellant's property, this does not necessarily translate to a harmful impact on visual amenity and I consider that the depth of separation from the patio area to the proposed extension, in the region of 20 metres, to be more than sufficient in moderating any potential impacts in terms of overbearance. Despite the extension being visible at times above the hedgerow, the significant separation distance and depth perception is such that it would not be overbearing, would not detrimentally reduce outlook, and would not have any significant adverse impact on visual amenity.

Sunlight

- 7.6. The Appellant has submitted a sun path diagram, plotting the path of the sun at 19:30 and 21:07 on the 21st June. I acknowledge that the path of the sun would intersect the footprint of the proposed extension, but this doesn't mean that overshadowing would take place at these times. Overshadowing would be further dependant on the height of the sun on the horizon at specific times and I note from the appellants submission that sunset would not occur until c. 22:00.

- 7.6.1. With regards to the windows on the rear of the Appellants' property which face within 90 degrees of due south, the BRE states that if any part of a new development subtends an angle of more than 25° to the horizontal measured from the centre of the window in a vertical section perpendicular to the window, then the sunlighting of the existing dwelling may be adversely affected. At no point would any part of the extension intersect the 25 degree angle when measures from the Appellant's property and I am fully satisfied that there would be no significant adverse impact in terms of a loss of sunlight to these windows. Furthermore, whilst I appreciate that there may be some degree of overshadowing of the patio in the summer months, this would be restricted to the end of the day when the sun is lower in the sky and the overall loss in proportion to the unrestricted sunlight enjoyed throughout the day and early evening would be minimal in my opinion.

Other Matters

- 7.7. The Board should be aware of a minor discrepancy on the drawings. Drawing No. 4 of 4 (Gable Elevation) shows two upper level windows on the west facing gable elevation when only one is shown on the corresponding plan. I am satisfied that this can be clarified by way of a condition.

8.0 AA Screening

- 8.1. Having regard to the small scale domestic nature of the proposed works, the location of the proposed development, the nature of the receiving environment, use of the existing wastewater treatment system which is operating satisfactorily, the relative separation distance from the nearest European site and the lack of any direct hydrological connections, 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.

9.0 Recommendation

- 9.1.1. I recommend that the Board uphold the decision of Limerick City and County Council and grant planning permission, subject to conditions.

10.0 Reasons and Considerations

10.1. 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 a reduction in sunlight and visual amenity, or other impacts. The proposed development would, therefore, be in accordance with the proper planning and sustainable development 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, on the 12th day of January 2024, and the Further Information received on the 7th day of August 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 interests of clarity.

2. The additional window shown at upper level on the west facing gable elevation shall be omitted and the elevational drawing updated to reflect the position of the window as shown on plan. Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing by the planning authority prior to commencement of development.

Reason: In the interests of clarity.

3. The existing dwelling and extension shall be used solely as a single dwelling unit and shall not be subdivided in any way through sale, letting or by any other means.

Reason - To restrict the use of the extension in the interest of residential amenity and the proper planning and sustainable development of the area.

4. Drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health and surface water management.

5. Site development and building works shall be carried only out between the hours of 0700 to 1800 Mondays to Fridays inclusive, between 0800 hours to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

6. 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.

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.

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.

Terence McLellan
Senior Planning Inspector

4th February 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320822-24		
Proposed Development Summary	Construction of a two storey extension and all associated site works.		
Development Address	Dromsally, Cappamore, Co. 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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	X		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No			Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____