



An
Bord
Pleanála

Inspector's Report

ABP-321176-24

Development

Retention of extension

Location

Sacre Coeur, Clancy's Strand,
Limerick, V94 NX2K

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

2460833

Applicant(s)

Diarmuid Upton

Type of Application

Retention Permission

Planning Authority Decision

Grant

Type of Appeal

Third Party

Appellant(s)

Annemaree Coady

Observer(s)

None

Date of Site Inspection

20th January 2025

Inspector

Clare Clancy

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1.0 Site Location and Description

- 1.1. The appeal site is located between Clancy's Strand to the southeast and Belfield Park which are mature residential areas in Limerick City. The site comprises of a backland site with a detached two-storey dwelling and separate flat roof office / gym unit, located to the rear of an existing two-storey semi-detached red brick dwelling. Access to the site is off Clancy's Strand road via shared Right of Way. An access road runs to the rear of the site which also has a shared pedestrian Right of Way. No external construction works to the existing dwelling were being undertaken at time of site inspection, although it would appear that the works relating to the porch and the extension to the rear are completed. Landscaping ground works around the existing dwelling are ongoing. The subject dwelling was noted to not overhang the perimeter boundary walls either side. It was noted that rain water goods are in place along the flat roof structure on the neighbouring site to the south.

2.0 Proposed Development

- 2.1. Permission to retain the construction of a 12 m² single storey extension to the rear and side of the existing two-storey dwelling, alterations to the front façade which include for modifications to the existing porch and ground floor window, and ancillary site development works.
- 2.2. The appeal site has a stated area of 0.055 ha. The gross floor area of the existing dwelling is 143 m². An existing conservatory 9 m² to the rear of the dwelling was removed to facilitate the extension.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 14th October 2024, Limerick City and County Council decided to grant retention permission subject to 12 no. conditions. The conditions are generally of a standard nature and include for the management of construction related activities, surface water management, external finishes, a development contribution and the use of the existing dwelling and extension solely as a single dwelling unit.

- Condition 4 requires the cleaning of the undercarriage and wheels of construction traffic leaving the site.
- Condition 9 requires the developer to take appropriate measures during the construction phase to ensure no damage is caused to adjoining third party property, and repaired where necessary.
- Condition 12 requires the submission of a Site Specific Waste Management Plan for the recovery / disposal of waste arising from the proposed development.

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report dated 11th October 2024 forms the basis of the assessment and recommendation to grant retention permission.

- The development was considered to comply with Section 11.4.4.1 of the Limerick Development Plan 2022-2028 and Objective HO O3 which relates to the protection of existing residential amenities and the existing residential zoning of the site.
- The concerns raised in the third party submission were noted and it was concluded that the issues raised were civil matters between the applicant and the third party.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

Uisce Éireann – No objection raised.

3.4. Third Party Observations

One third party observation was made in relation to the proposed development. The matters raised are largely covered by the grounds of appeal.

4.0 Planning History

Appeal Site

P.A. Ref. 90/770182 Retention granted for annex at rear and realignment of entrance, subject to that the rear out office building is used solely for storage purposes or other such purpose incidental to the enjoyment of the existing dwelling, not for human habitation.

P.A. Ref. 89/770426, ABP Ref. 82039 Retention permission refused for living unit to the rear of existing dwelling, bedroom window to side, and realignment of entrance.

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

The relevant policy and objectives of the current CDP include the following:

- Land Use Zoning

The appeal site is zoned 'City Centre'

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, while minimising the impact of private car based traffic and enhancing the existing urban fabric.

- 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 Front Extensions

This 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 unusable 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

- SAC Lower River Shannon Site Code 002165 – approx. 80 m to the southeast.
- SPA River Shannon & River Fergus Estuaries SPA Site Code 004077 – approx. 550 m to the southwest.

5.3. EIA Screening

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 report.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. One third party appeal submission was received from Annemaree Coady whose site adjoins the appeal site to the south. The grounds of the appeal can be summarised as follows:

- Residential Amenity – Existing windows on the gable elevation of the subject development, requests that the 2 regular windows are conditioned to be of opaque glazing to protect residential amenities.
- Construction Management – no construction management plan put in place or advance notice of construction activities which gave rise to impacts including scaffolding oversailing her property and trespassing occurring and construction works walking on appellant's property, and damage to roof and leak.
- Shared Boundary Wall – cracking has occurred of boundary wall due to unauthorised works.
- Condition 9 – Due to the nature of the application which is for retention permission, damage has already occurred. A condition is necessary requiring remediation / repair of actual damage to third party property caused by the works. Further detail is set out in an accompanying Site Inspection Report.

6.2. Applicant Response

The applicant's response to the grounds of appeal can be summarised as follows:

- Gable Windows – no alterations to the original window opes were made. The windows were replaced as part of thermal upgrade and are in effect the same format 2 x opaque 2 x clear.
- Construction Management Plan – the development carried out was modest in scale, 12 m² extension and residential improvements. They were not of a scale or complexity which would typically require a construction management plan. Notwithstanding, works carried out adhered to best practices including protective scaffolding, mesh netting, water suppression etc (Figure 5). Efforts were made to communicate with the appellant.
- Damage to Roof – the applicant disputes the allegation that construction works trespassed on the appellant's roof or caused damage. A Structural Assessment carried out by an Engineer was undertaken by the applicant of the appellant's property noting that the damage to the appellant's roof was pre-existing. Figure 5 shows enclosed scaffolding wrapped around the subject development, relative to the appellant's flat roof for the duration of works to the external

facades. The appellant installed CCTV facing the applicant's site which would have recorded evidence of trespassing onto the appellant's premises.

- Cracks in Boundary Wall – Disputes the claim that cracks to the boundary wall arose from construction activities related to the development carried out. The cracks to the boundary wall are historic.
- Condition 9 Repair of Damage – Any damage to the appellant's property as raised in the appellant's engineer report is not as a result of the development carried out. Both the applicant's engineer and an independent roofer assessed the alleged damage and concluded that it is unrelated to the construction activities carried out and more likely associated with pre-existing conditions or age-related deterioration.

Any condition that the Board may attach in relation to the repair of damage to consider the need for causative evidence and limit obligations to damage directly and demonstrably caused by the applicant's works, as determined through an impartial assessment.

6.3. Planning Authority Response

None received.

6.4. Observations

None received.

6.5. Further Responses

6.5.1. A further submission was received from the appellant Annemaree Coady which can be summarised as follows:

- No protective scaffolding, netting or other protective measures were put in place until mid-August nearly 4 months into construction.
- Regarding trespassing, before scaffolding was erected, workers used the garage roof to access the side elevation of the subject dwelling. Security cameras were installed to document ongoing trespassing (images included).

- Damage to the Boundary Wall – the cracks to the boundary wall are pre-existing, the construction work including drilling and the use of heavy machinery has significantly worsened the condition of the wall. Vibration and tremors from construction works were within the appellant's house. The boundary wall requires urgent repair.
- Roof Report Submitted by Applicant – this was based on a visual inspection from a bedroom window carried out some time after construction began. The roof is now leaking in areas where the scaffolding overhung which may have contributed to damage.
- Sewerage Pipes Replacement – The sewerage pipe was replaced with a large black pipe which is visible from the entrance / driveway and stands out against the previously light grey pipe that blended in with the surroundings.
- Glazing of Gable Windows – the suggestion that the windows were replaced for thermal upgrade is untrue, the replacement windows open fully outward and inwards, the entire window is moveable which is a significant alteration from the previous design. This change directly impacts on residential amenities.

7.0 **Assessment**

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 relevant local/regional/national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows (example):

- Principle of Development
- Residential Amenity
- Shared Boundary
- Other Matters

7.1. Residential Amenity

- 7.1.1. This is an application which relates to the retention of an extension to the rear of the existing dwelling, and modifications carried out to the front elevation relating to the porch and ground floor window. I note that an existing sunroom at the rear was demolished.
- 7.1.2. The appellant resides in the neighbouring house to the south. The exterior wall of the flat roof garage / storage space defines the shared boundary between the appellant's property and the appeal site and the southern elevation of the subject dwelling faces the side elevation of the appellants house. The main grounds of appeal relate to impacts arising from construction activities carried out to the subject dwelling on the appeal site. In addition the appellant is seeking through the appeal to replace 2 x clear glazing windows with 2 x opaque glazing at first floor on the southern elevation to protect their residential amenities. It is further submitted that the new windows move inwards and outwards and consequently give rise to overlooking and impact on privacy.
- 7.1.3. I note that the 4 no. windows at first floor level on the south facing elevation serve a bedroom, the landing area and a w.c. and bathroom. These windows were already in situ prior to the development works carried out and I note that no alterations to these original window opes were made on foot of the new development works. The applicant has indicated that the windows were replaced and upgraded with new more energy efficient windows and remain the same in terms of what they serve, 2 x opaque glazing and 2 x clear glazing. I note that the 2 x opaque glazing serve the w.c. and bathroom.
- 7.1.4. Having regard to the foregoing, I do not consider that the subject development has given rise to new overlooking. The window opes at first floor level face the north / north-eastern elevation of the appellant's dwelling. The appellant's side elevation is already visible from the existing window opes on the south facing elevation of the subject dwelling and on that basis I do not consider it appropriate to condition the removal of clear glazing on windows at this location. In relation to the extension to the rear of the existing dwelling, this is a ground floor extension which provides additional living space. Having regard to the provisions of objective HO O3 of the development plan and to the zoning objective for the site, I consider that the subject development

is acceptable in terms of design, scale and finish and that it does not give rise to new overlooking of any adjoining third party dwelling.

- 7.1.5. The appellant has also raised concerns that her property was impacted by the construction workers trespassing on her property when construction works were being undertaken. In particular it is stated that the flat roof garage adjacent to the appeal site was damaged. Reference is also made to the ground floor rear annex of her existing dwelling. I note from the appellant's submission that images of construction works are included which shows construction workers on the existing flat roof of the appellant's property. While I acknowledge the inconvenience caused to the appellant and I note that the works to the south facing elevation are complete and that rain water goods are erected on the flat roof which overhangs the appeal site, I consider that the matters raised in relation to trespassing or damage caused to property are a civil matter to be resolved between the relevant parties, having regard to Section 34(13) of the Planning and Development Act 2000 (as amended). I therefore do not consider this to be an issue for the Board to address.

7.2. Shared Boundary

- 7.2.1. The side wall to the flat roof garage space of the appellant's property forms part of the shared boundary with the appeal site. The appellant argues that cracking has occurred to the shared boundary including internally within their dwelling which arose from the construction works carried out. The appeal submission includes photos of cracks on the shared boundary wall along the full length of the site which were pre-existing but which the appellant argues were worsened due to construction activities. I note that in order to carry out the works, scaffolding was erected on the southern side of the appeal site which overhung the appellant's property. Notwithstanding, I consider that matters relating to shared boundaries and boundary disputes are a civil matter, having regard to the provisions of Section 34(13) of the Planning and Development Act 2000 (as amended). Party wall agreements are covered under separate legislation and are not a matter for the Board.

7.3. Conditions

- 7.3.1. The planning authority included conditions for the construction phase of the development which included for hours of operation, measures to manage construction traffic and dirt arising from same, and measures to address any damage caused to neighbouring properties. I consider it appropriate to include a condition to manage construction hours of operation in respect of completion of any outstanding works and in the event of a grant, I recommend that the Board includes such a condition.

Condition 4

- 7.3.2. This condition relates to the cleaning of the underside and wheels of construction traffic. Given the nature of the site which is for a domestic extension and the modest scale of works undertaken and to be completed, I do not consider that such a condition is warranted and I do not recommend the Board includes it, in the event of a grant.

Condition 9

- 7.3.3. This condition requires the developer to take appropriate measures to make good any damage to adjoining third party property. From my site inspection I am satisfied that no building works have taken place on either third party boundary walls to the northeast or to the south of the appeal site. In this regard I note that there is side passage access between the existing dwelling and both of these shared boundaries. For this reason and having regard to Section 7.1.5 above, I consider that the inclusion of condition 9 is unnecessary and I do not recommend its inclusion should the Board be minded to grant retention permission. As previously noted above in Section 7.2, matters relating to third party and shared boundary walls and damage to same are civil matters to be resolved within the relevant parties.

Condition 12

- 7.3.4. The planning authority also included condition 12 which relates to waste management arising from construction activities. I consider that a similar condition should be included in the event of a grant and recommend for the Board to do so, given the amount of debris evident within the site at time of site inspection.

7.4. Other Matter

- 7.4.1. The appellant has raised the issue in relation to the colour of new sewerage down piping mounted on the south facing elevation of the subject dwelling, replacing light grey coloured pipes. It is argued that the new black pipes are an eyesore and detract from the aesthetic appearance of her property and is highly visible from the entrance / driveway.
- 7.4.2. I do not consider this to be an issue in terms of the overall principle of the subject development, or the prominence / visibility of the pipes which replaced existing pipes. This is a matter of personal preference. I therefore do not agree with the appellant on this issue.

8.0 AA Screening

- 8.1.1. I have considered the appeal in relation to the proposed development in light of the requirements S177U of the Planning and Development Act 2000 (as amended).

The subject site is located approx. 80 m to the northwest of the Lower River Shannon SAC Site Code 002165, and approx. 550 m to the northeast of the River Shannon & River Fergus Estuaries SPA Site Code 004077. The proposed development comprises of minor demolition works within the curtilage of the existing dwelling and the construction of an extension to the rear and porch canopy to front of the existing dwelling. No nature conservation concerns were raised in the planning appeal.

Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows:

- The nature of and scale of the development which is already carried out.
- The sites' location in an established residential area which is serviced with public foul sewer and public water.
- Location-distance from the nearest European sites and the lack of connections.
- The absence of direct hydrological connections.
- Screening assessment of the Planning Authority.

- 8.2. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site.

9.0 Recommendation

I recommend that retention permission is granted for the development, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

Having regard to the provisions of the Limerick Development Plan 2022-2028 and the existing established use of the site, the nature, scale and design of the proposed development, and the suburban context of the residential development, it is considered that subject to compliance with the conditions set out below, the proposed development is an acceptable form of development at this location which adequately integrates with the existing dwelling, and would not seriously injure the amenities of adjoining property, and 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 retained in accordance with the plans and particulars lodged with the planning application on the 20th 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 interest of clarity.
2.	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.

3.	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.
4.	Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 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.
5.	A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the agreed waste facilities shall be maintained and waste shall be managed in accordance with the agreed plan. Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.
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, 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.
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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.

Clare Clancy
Planning Inspector

21st January 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-321176-24		
Proposed Development Summary	Retention of extension		
Development Address	Sacre Coeur, Clancy's Strand, Limerick, V94NX2K		
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)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	✓		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	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	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)	
Yes	Tick/or leave blank	Screening Determination required	

Inspector: _____ **Date:** _____