



An
Bord
Pleanála

Inspector's Report ABP-307383-20

Development

Retention of extension to the existing house as constructed and permission to complete this extension, addition of a new window and a new door to the front elevation, addition of Velux rooflight to the rear elevation, modifications to the roof, all to the existing house, together with associated site works.

Location

Fairhill, Rathkeale, Co. Limerick

Planning Authority

Limerick City & County Council

Planning Authority Reg. Ref.

20/127

Applicant(s)

Danny Sheridan

Type of Application

Retention permission & permission

Planning Authority Decision

Refusal

Type of Appeal

First Party v Decision

Appellant(s)

Danny Sheridan

Observer(s)

None

Date of Site Inspection

5th August 2020

Inspector

Hugh D. Morrison

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2.0 Site Location and Description

- 2.1. The site is located in the block bound by Main Street to the south, Peppard's Lane/ Fairhill to the north, and Chapel Lane and Peppard's Lane, variously, to the east and to the west. This block comprises street-fronted buildings to the south with elongated backlands, which have been built on around the edges to the said block, to provided detached bungalows/dormer bungalows or two storey dwelling houses. These buildings are typically accompanied by gated and enclosed yards. The accompanying side streets are narrow with stretches of single lane carriageway.
- 2.2. The site lies in a backland position to the rear of a three-storey building with a principal elevation onto Main Street. This building has a substantial rear extension. Its ground floor shop space is vacant at present and the upper floors appear to be vacant, too. The building is shown as being in the applicant's ownership.
- 2.3. The site is accessed off the NE portion of Peppard's Lane via a gated entrance that leads onto a shared track, which is highlighted on the submitted plans as a right of way to the site.
- 2.4. The site itself is of regular shape and it extends over an area of 0.025 hectares. The northern portion accommodates the subject building and the central and southern portions are laid out as an enclosed hardstanding. The northern, eastern, and western elevations of this building abut the site boundaries and a freestanding lean-to building is sited immediately to the north.

3.0 Proposed Development

- 3.1. The proposal would entail the retention, as constructed, of a two-storey extension (32.8 sqm) to the southern elevation of the existing two-storey building (80 sqm) on the site and the completion of this extension. A three-bed dwelling house would thus ensue.
- 3.2. The proposal would also entail the addition of a new door and a new window above it in the front (eastern) elevation of the building, the insertion of Velux rooflights into the rear (western) roof plane, and modifications to the roof, along with all associated site works.

- 3.3. The central and southern portions of the site would be laid out to provide two car parking spaces with associated manoeuvring space and a lawn in the SW corner.

4.0 Planning Authority Decision

4.1. Decision

Permission refused for the following reason:

Having regard to the restricted site area of this backland site, which is further constrained by the permitted development of four detached dwellings on the adjacent sites to the north and east and by the proximity of the existing residential property to the south, it is considered that the proposed development would result in overdevelopment of the site, would seriously injure the residential amenities of these properties by reason of overlooking and overbearing impact, and would result in inadequate useable private amenity spaces for future occupiers of the site. Furthermore, by reason of its form and bulk, and the proximity of the proposed structure to the site boundaries, it is considered that the design of the proposed development would be of poor quality and would be unacceptable in its context. The proposed development would, therefore, be contrary to the provisions of the Rathkeale Local Area Plan 2012 – 2018 (as extended) and the Limerick County Development Plan 2010 – 2016 (as extended) and to the proper planning and sustainable development of the area.

4.2. Planning Authority Reports

4.2.1. Planning Reports

See decision.

4.2.2. Other Technical Reports

- Irish Water: No objection + Standard and site-specific observations.
- TII: No observations.
- Mid-West NRO: No observations.
- LCCC:
 - Archaeology: No issues.
 - Operations & Maintenance Services: No comments to make.

5.0 Planning History

Site:

- 17/995: Construction of dwelling, plot entrance, connect to services, including associated site works: Refused at appeal ABP-300757-18 for the same reason as the current application.

Adjacent sites:

- 16/688: Construction of 1 detached dwelling house: Permitted on 11th May 2017.
- 16/817: Construction of 3 detached dwelling houses + reuse/modify existing site entrance and construction of service road: Permitted on 11th May 2017.

6.0 Policy and Context

6.1. Development Plan

Under the Rathkeale Local Area Plan 2012 – 2018 (LAP) (extended), the site is zoned “existing residential”, wherein the objective is “To ensure that new development is compatible with adjacent uses and protect the amenity of existing residential areas.” It is also shown as lying within a special development area for temporary private sites for mobile homes/caravans.

Objective H4 addresses infill development, restoration, and town renewal. A relevant extract is cited below:

Consider on their merits proposals for residential development of rear plots where they can be adequately accessed, and where they would not affect existing or proposed private amenities, storage or parking requirements. Such proposals should in general be part of larger masterplans involving contiguous plots.

Adjoining the site to the N is Opportunity Area 4 of the LAP with Opportunity Area 5 adjoining it to the W and Opportunity Area 3 lying a short distance away to the NE. Various 3, 2, and 1 house plots are shown in these Areas.

6.2. Natural Heritage Designations

Askeaton Fen Complex SAC (002279)

6.3. EIA Screening

The proposal is for the extension and alteration of an existing building, which the applicant considers to be a dwelling house. As such, it is not a project for the purpose of EIA.

7.0 The Appeal

7.1. Grounds of Appeal

The applicant begins by providing some background information to the proposal. He refers to the subject building as a house that has been in existence for more than 100 years and to his quest to renovate it and extend it, within what were thought to be exempted development parameters, as a dwelling for his wife and children.

Renovation was the route chosen as the house is structurally intact and LCCC favours conservation rather than redevelopment. The extension is designed so as not to compete with the original house, and it was added to ensure that the project affords a sustainable amount of accommodation.

The applicant summarises the planning history of adjoining sites (cf. to the same summary in my planning history set out above). He highlights various features of the current proposal and he draws attention to the absence of objection to this proposal from all, save the case planner. The case planner's report is critiqued, e.g. it refers to the outstanding matter of road construction, whereas an historic road already serves the site, and it fails to recognise that, as an existing house, it already has amenity space, and the accompanying parking and turning area would be adequate.

The applicant proceeds to respond to the PA's reason for refusal as follows:

- The reference to constraints imposed by the extant permissions for 4 dwelling houses nearby is misplaced as the subject building is an existing house and so it predates these permissions, which have, in any event, yet to be implemented.

- The proposal would not constitute over-development as it simply entails the renovation and extension of an existing house, which is served by adequate amenity and parking space. Furthermore, the proposed extension would not be overbearing, and it would not lead to overlooking, unlike the dwelling house permitted under 16/688 opposite.
- The proposed extension at 32.8 sqm is not bulky and it is set back from the adjacent boundary wall. By contrast, the extant permissions are for large dwelling houses and, in the case of the one opposite, it would be built on the eastern boundary of its site. Furthermore, the design of this extension is not of poor quality.

7.2. **Planning Authority Response**

None

7.3. **Observations**

None

7.4. **Further Responses**

None

8.0 **Assessment**

8.1. I have reviewed the proposal in the light of the LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use and planning history,
- (ii) Development standards,
- (iii) Amenity,
- (iv) Access and parking,
- (v) Water, and

(vi) Stage 1 Screening for AA.

(i) Land use and planning history

- 8.2. Under the LAP, the site lies within an area that is zoned “existing residential”, wherein the objective is “To ensure that new development is compatible with adjacent uses and protect the amenity of existing residential areas.” Accordingly, there is no, in principle, land use objection to the residential use of the site.
- 8.3. The applicant has responded to the PA’s refusal by contending that the baseline for any assessment of his proposal is the understanding that the subject building is a dwelling house, although he has not submitted any documentation to substantiate this contention. The applicant proceeds to set out his case for the proposal on the basis that the pre-existing dwelling house on the site must take precedence over any concerns to do with the amenities of proposed dwelling houses, which are the subject of extant permissions (16/688 for 1 dwelling house to the SE and 16/817 for 3 dwelling houses to the N).
- 8.4. In the light of the following evidence, which is available to me, I consider that the applicant’s position needs to be demonstrated:
- Google maps street view from 2009 shows the subject building with a large amount of vegetation attached to its northern elevation.
 - On Page 68 of the LAP, which came into effect on 19th November 2012, the adjoining land to the north of the site is shown as being comprised in Opportunity Area 4, which is entitled “Backland development of plot with access from Fair Hill.” An artist’s impression of this Area shows the siting of 3 dwelling houses in this Area, with the most southerly abutting the northern boundary of the current subject site. It thus denotes no awareness/ acknowledgement that the building on this site may be a dwelling house.
 - Permitted applications 16/688 and 16/817 authorise the construction of dwelling houses in positions to the SE and to the N of the subject building, which at their closest points would be, variously, 5m and 7m away from this building. The site layout plan submitted as part of the latter application identifies the building as a “shed” and the case planner, who reported on both these applications, did not refer to it. Given the proximity of the said proposed

dwelling houses to this building, I would have expected that, if it were a dwelling house, then this would have been an issue for these two proposals.

- Application 17/995 for the site was appealed by the applicant. As part of his grounds of appeal, he referred to the subject building as follows: “The Board are asked to note that there is a current old coach house derelict building on the lands and the applicant could have applied for the restoration, conversion and extension of the same and such an application would have to have received a greater consideration by way of being part of the existing built environment.”

- 8.5. I consider that the above evidence provides no basis for saying that the subject building was in use as a dwelling house in recent times. If it were to have been in such use in the past, then the question would arise as to whether or not this use was subsequently abandoned, i.e. an historic use cannot be assumed to be still extant today.
- 8.6. The site lies within the historic town of Rathkeale and so is the subject of Recorded Monument L1029-031. I note that the PA’s archaeological consultee raises no issues with respect to the current proposal.
- 8.7. I conclude that the applicant has not demonstrated that the subject building is a dwelling house and evidence available to me suggests that this may not be the case. In these circumstances, I am not in position to regard this building as a dwelling house that pre-dates the extant permissions for dwelling houses, variously, to the SE and to the N.

(ii) Development standards

- 8.8. The proposal would entail the retention and completion of alteration and extension works to the subject building to provide a detached, two-storey, 3-bed/5-person dwelling house with a total floorspace of 112.8 sqm.
- 8.9. Quantitatively, under Table 4.1 of the Quality Housing for Sustainable Communities: Best Practice Guidelines, the proposal would comply with the overall and the specific area recommendations for the size of dwelling house envisaged. The only infringement would relate to the absence of a 5 sqm internal storage space.

- 8.10. Qualitatively, existing and proposed openings would occur in the eastern, south-eastern, and southern elevations in positions whereby they would serve habitable rooms. A high-level window and two rooflights would serve the master bedroom: The said window should be re-specified as a conventional one to facilitate views out.
- 8.11. The eastern elevation would be on the site boundary. Under the submitted site layout plan, it is shown as abutting the western end of the right of way to the site and so, by implication, lighting to and outlooks from habitable room openings in the said elevation would continue for the duration of this right of way.
- 8.12. Externally, the dwelling house would be served by a lawn in the SW corner of the site, which would have an area of c. 40 sqm. Under the CDP, minimum depth dimensions for front and rear gardens of 6m and 11m are cited. By implication, the proposed area of lawn would be insufficient to provide an adequate standard of amenity to future residents.
- 8.13. I conclude that the proposal would, subject to some minor modifications, accord with development standards. It would, however, be served by insufficient private open space.

(iii) Amenity

- 8.14. As discussed under the first heading of my assessment, extant permissions exist for dwelling houses to the SE of the subject building and to the N.
- 8.15. The principal elevation of the former dwelling house would directly overlook at short range the parking area and lawn, which would serve the envisaged dwelling house. At more acute angles this elevation would overlook the extension. Consequently, overlooking would be unavoidable and so the establishment of a satisfactory standard of neighbour privacy would be frustrated. Furthermore, this dwelling house would overshadow the extension to the subject building, and its overbearing presence would limit the available outlook from the same. Conversely, the proposal would be seriously injurious to this dwelling house in terms of overlooking and overbearing.
- 8.16. The rear elevation of the latter dwelling house would overlook the northern, blank, elevation of the subject building. This dwelling house appears to have been authorised on the understanding that this building was not a dwelling house but a shed. Consequently, its use as a dwelling house with access/egress to its front

(eastern) elevation would have adverse implications for the amenity that would otherwise have been anticipated for the adjacent rear garden to the permitted dwelling house.

- 8.17. In the light of the foregoing discussion, the proposal would represent an over concentration of dwelling houses in the immediate area of the site and, as such, it would constitute over-development.
- 8.18. I conclude that the proposal would adversely affect the amenities that would otherwise be achievable for the permitted dwelling houses to the SE and to the N and that, conversely, the dwelling house to the SE would adversely affect the envisaged dwelling house and so militate against the establishment of a satisfactory standard of amenity therein.

(iv) Access and parking

- 8.19. Access to the site is from the N via a gated entrance off the NE portion of Peppard's Lane. This entrance connects to a vehicular track to the site, which also affords access to the 4 plots with extant permission for dwelling houses. The proposal would entail the access of a fifth dwelling house off this track. The western sightline at this entrance is good. However, the eastern one is restricted by the corner wall of the adjacent residential property. While the road configuration to the W is such that approaching vehicles can only do so at slow speeds, this is not the case with approaching vehicles from the E and so I am concerned over the greater intensity of use of this entrance envisaged under the current proposal.
- 8.20. The submitted site layout plan shows a right of way coinciding with the aforementioned vehicular track. Clearly, if it is to afford access to the envisaged dwelling house, then it would need to be formally laid out and provided with a sealed surface. No details in this respect have been submitted.
- 8.21. The proposal would entail the provision of 2 car parking spaces and accompanying manoeuvring/turning space within the site boundaries. These arrangements would be satisfactory.
- 8.22. I conclude that the gated entrance to the vehicular track to the site is accompanied by a sub-standard eastern sightline and so its increased usage, as envisaged by the proposal, would be hazardous. I conclude, too, that insufficient information has been

submitted to ensure that the said track would be capable of being formally laid out and provided with a sealed surface as part of the current proposal.

(v) Water

- 8.23. The proposal would be served by the public water mains and the public foul water sewerage system. Irish Water has raised no objection in these respects and the submitted site layout plan shows the laying of a sewer line to a connection point in the rear yard to the applicant's property to the south of the site.
- 8.24. The proposal would be served by a soakaway for the purpose of surface water disposal. Details in this respect have not been submitted. However, a note on the aforementioned plan, states that the parking area would be paved in permeable concrete blocks.
- 8.25. The OPW's flood maps do not show the site as being the subject of any identified flood risk.

(vi) Stage 1 Screening for AA

- 8.26. The site is not in or near any Natura 2000 site. It is an urban site, which is capable of being served by public utilities. Consequently, no Appropriate Assessment issues arise.
- 8.27. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, 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 Conclusion and Recommendation

- 9.1. In the light of my assessment, I conclude that the proposal would warrant objection on the grounds of over-development and serious injury to amenity. Other concerns exist, to, with respect to access and surface water disposal. However, in drafting the reasons and considerations below, I have adopted the convention of summarising the primary grounds for refusal.
- 9.2. That permission be refused.

10.0 Reasons and Considerations

Having regard to the Zoning Objective of the site and to Objective H4 of the Rathkeale Local Area Plan 2012 – 2018 (as extended) and the restricted nature of the backland site, which is further constrained by extant permissions for dwelling houses to the immediate south-east and to the north of this site, the Board considers that the applicant has failed to demonstrate that the subject building is a dwelling house and, in these circumstances, its proposed alteration and extension for use as a dwelling house would constitute over-development of the site. Consequently, the proposed dwelling house would be seriously injurious to the anticipated amenities of the adjacent permitted dwelling house to the south-east, especially, due to overlooking, and an associated loss of privacy, and overbearing. Conversely, the proximity of this permitted dwelling house would militate against the establishment of a satisfactory standard of amenity to residents of the proposed dwelling house, due to reciprocal overlooking and overbearing, and, in addition, overshadowing. Furthermore, the proposed dwelling house would be served by insufficient private open space. Thus, the proposal would contravene the Zoning Objective for the site and Objective H4 of the Local Area Plan, both of which seek to protect residential amenity, and so it would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

1st September 2020