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## An Bord Pleanála



## Inspector's Report

**Development:** Construct boundary wall and vehicular entrance similar to that approved under 15/160 at Lower Main Street, Rathkeale, Co. Limerick

### Planning Application

Planning Authority : Limerick City and County Council

Planning Authority Register Reference : 15/1071

Type of Planning Application : Permission

Applicant : John O'Connor

Planning Authority Decision : Refuse

### Planning Appeal

Appellant : John O'Connor

Type of Appeal : 1<sup>st</sup> Party v. Refusal

Observers : None

Inspector : Pauline Fitzpatrick

Date of Site Inspection : 17/05/16

### Appendix:

1. Photographs
2. Extracts from the Rathkeale LAP 2012-2018

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## 1. SITE LOCATION AND DESCRIPTION

The site subject of the appeal is an end of terrace site that fronts onto Lower Main Street in the centre of Rathkeale with a laneway providing pedestrian access to a public car park bounding the site to the east. The original two storey building on the site has been demolished and work has commenced on a replacement dwelling. Part of the side boundary onto the car park has been removed to facilitate construction works.

## 2. PROPOSED DEVELOPMENT

Permission is being sought to revise the location of the boundary wall and vehicular entrance off the laneway from that granted permission under re. 15/160. In same the setback of the wall and entrance by 1 metre from that proposed was required. The applicant wishes to revert to the position as originally proposed. It is contended that permission to construct a storage building to the south of the site under ref. 12/487 which extends to the outer extremity of the applicant's side boundary renders the required setback meaningless with regard to the layout of the future through road as set out in the current LAP.

## 3. TECHNICAL REPORTS

The **Planner's** report dated **22/02/16** notes the concerns that were raised during the assessment of application ref. 15/160 that the proposal could impact negatively on a possible future distributor road as shown on the LAP and the need for the boundary towards the rear of the site being set back 1 metre from that indicated. The Planning Authority maintains its concerns that if the wall and entrance is constructed as shown in the current application it would inhibit the development of the opportunity site as the location of the boundary wall would restrict the access from the car park onto Main Street. A refusal of permission for one reason is recommended.

The **Area Office** notes that the gateway shown is a hazard and would present a danger to the public. It should not be granted opening out onto a public car park. It would also hinder the Rathkeale LAP. With the limited area present, access could be blocked from cars parking in the car park. A pedestrian gateway with an opening inwards would be possible option.

The **Executive Archaeologist** in a report dated **16/02/16** states there are no archaeological issues.

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An email from **S.E.E. Travel and Transportation** section dated **22/0/216** states that the comments and requirements for 15/160 apply in this instance and the relocation of the boundary wall is not recommended.

#### **4. PLANNING AUTHORITY'S DECISION**

The Planning Authority (PA) decided to refuse permission for the above described development on the grounds that the proposed boundary wall and entrance location would contravene policy UD1 of the Rathkeale LAP as it would inhibit the development of Opportunity Site 9 because the line of the wall would restrict the proposed through road for vehicular traffic.

#### **5. GROUNDS OF APPEAL**

The 1<sup>st</sup> party appeal against the PA's notification of decision to refuse permission, which is accompanied by supporting drawings, can be summarised as follows:

- A building was granted permission on an adjoining site that matches the width of the applicant's site.
- The extension of the new road is more than achievable with the boundary remaining as originally proposed. This is shown by extrapolating a line parallel to the alignment of the new road from the corner of the approved dwelling.
- Parking is prohibited on Lower Main Street in front of the permitted dwelling. The applicant requires space for private amenity and two parking spaces.
- The 1 metre setback required would render the rear of the plot unworkable in terms of parking.

#### **6. PLANNING AUTHORITY'S RESPONSE TO APPEAL SUBMISSION**

The PA has no further comment.

#### **7. OBSERVATIONS**

None

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## **8. RELEVANT PLANNING HISTORY**

**15/160** – permission granted for demolition of existing dwelling and construction of a replacement dwelling and vehicular access to rear from adjoining public car park.

**12/487** – permission granted for storage building on the site immediately to the south of the appeal site.

## **9. DEVELOPMENT PLAN PROVISIONS**

### **Rathkeale Local Area Plan 2012-2018**

**Policy UD1** - to promote high quality design throughout the Plan area and ensure that future development in Rathkeale is guided by principles of best practice and sustainability.

The site is within an area zoned Town Centre and is within Opportunity Site 9. As part of the redevelopment of the opportunity site a through road for vehicular traffic from the junction of New Road and Main Street to the R518 Ballingarry Road should be provided. The road would run through part of the Council owned car park. An indicative layout for the opportunity site is provided on which the through road is delineated.

## **10. ISSUES AND ASSESSMENT**

The issue arising in this instance is the positioning of the boundary wall and access gate to serve the approved dwelling on the site. Work has commenced on the dwelling with part of the original side wall demolished to facilitate construction.

As per the details that accompany the permission granted under ref. 15/160 further information was sought requiring the setback of the boundary at the rear end of the site by 1 metre so as to ensure that the possible future distributor road as shown on the indicative layout for Opportunity Site No. 9 in the Rathkeale LAP was not prejudiced. The agent for the applicant ceded to the request with a revised site layout submitted with the necessary setback delineated thereon. Permission was subsequently granted subject to 11 conditions. Condition 1 required the development to be carried out in accordance with the revised plans. Condition 8 required a revised site entrance and details of the proposed boundary treatment to be submitted for agreement. From the detail on file the relocation of the entrance is

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so as to ensure that it does not interfere with the proposed road. The applicant did not appeal the decision.

The appellant is now seeking the reinstatement of the wall along the line as originally delineated, namely 1 metre out from that permitted. It is contended that the boundary will correspond with the building line of the storage shed permitted immediately to the south under ref. 12/487 and that the setback would render the rear space unworkable.

In principle I would submit that the access arrangement from a public car park coupled with the strictures imposed by the need to protect the indicative road layout as per the LAP, renders the provision of rear off street parking very problematic. Such provision is not a given in such a town centre location and I note that the original dwelling on the site did not appear to have such an arrangement. Notwithstanding this view the fact remains there is an extant permission for such a provision. The required one metre setback as shown on the revised site layout can provide for one parking space. This accords with the County Development Plan requirements for a three bedroom dwelling (ref. Table 10.5) and is a reasonable provision in such a town centre location. I note that the site is immediately adjacent to and accessed from a free public car park.

As noted on day of inspection the site immediately to the south has been cleared on which permission has been secured for a storage building under re. 12/487. The building line of same is delineated on the site layout plan accompanying the application. Whilst I note that the boundary wall line on the appeal site as originally proposed would match the building line at its southern most corner I would extrapolate that the Planning Authority's requirements in terms of the set back is most likely linked to the removal of the 'kink' in the boundary line in addition to securing a setback from the possible road alignment so as to allow for the site entrance. To allow for the line as now proposed and, notably the entrance, would impact unduly on the indicative line. I therefore concur with the PA's refusal of permission in this instance.

#### *AA – Screening*

Having regard to the nature and scale of the development within Rathkeale town centre, 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 a European site.

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## **11. CONCLUSION AND RECOMMENDATION**

Having regard to the documentation on file, the grounds of appeal, a site inspection and the assessment above I recommend that permission for the above described be refused for the following reasons:

### **REASONS AND CONSIDERATIONS**

1. The development would contravene materially condition 1 attached to an existing permission for development granted under planning register reference 15/160.
2. The proposed boundary wall and entrance location would prejudice the alignment of the proposed through road from the junction of New Road and Main Street to the R518 Ballingarry Road as identified for Opportunity Area 9 in the Rathkeale Local Area Plan 2012 and would therefore be contrary to the proper planning and sustainable development of the area

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**Pauline Fitzpatrick**  
**Inspectorate**

**May, 2016**