



An
Bord
Pleanála

Inspector's Report PL91.249305

Development	Construction of a dwelling, plot entrance, connect to services and associated site works.
Location	Fair Hill, Rathkeale, Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	17/642
Applicant(s)	Thomas Kealy
Type of Application	Planning Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Thomas Kealy
Observer(s)	None.
Date of Site Inspection	11 th January, 2018 I did not get access to the site on the date of my inspection.
Inspector	A. Considine

1.0 Site Location and Description

- 1.1. The subject appeal site is located in the town of Rathkeale, Co. Limerick, approximately 25km to the south west of Limerick City and 11km to the north east of Newcastle West. The site itself is located to the north of Main Street and is accessed from Pound Lane. The site is located to the rear of houses fronting onto Pound Lane to the east, and to the rear of houses fronting onto Fair View to the west, and the hotel car park between the residential sites. The wider landholding is essentially a gated development which currently has seven houses. The proposed development will result in eight houses being constructed within this area of the landholding.
- 1.2. The wider landholding has a stated area of 0.46ha (1.136acres) while the site the subject of this appeal has a stated area of 0.021ha. The proposed site currently comprises part of the open space provision for the existing houses. The existing houses comprise of two storey dwellings and all appear to be within family ownership.

2.0 Proposed Development

- 2.1. Permission is being sought for the construction of a dwelling, plot entrance, connect to services and associated site works, at Fair Hill, Rathkeale, Limerick.
- 2.2. In support of the proposed development, the applicant has submitted the necessary plans and particulars. The proposed dwelling is a two storey house which reflects the design features of the existing houses within the landholding and will provide car parking for one car. The house will provide accommodation over two floors including an entrance hall, a large open plan kitchen / dining room / living room and utility and WC at ground floor level. The first floor will provide for three large double bedrooms, one of which will be en-suite, a family bathroom and hot press.
- 2.3. The house proposes a floor area of 142.71m² and open space is proposed in the form of a small green area to the rear of the house and a patio / yard area. The Board will note that the site layout provides for a rear garden depth of approximately 3m with an amenity space proposed to the north of the house. The subject site fronts onto the open space servicing the existing houses on the landholding. The overall height of the house is indicated at 7.958m to the ridge.

2.4. The Board will note the concurrent appeal in relation to the construction of a house to the north of the family home and landholding, ABP ref PL91.249307 refers.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following two reasons:

1. Having regard to the size and scale of the proposed development on the plot on which it stands it is considered that the proposal would represent overdevelopment of the site and would set an unwelcome precedent for this type of development and, as such, would be contrary to the proper planning and sustainable development of the area.
2. The development as proposed, and the precedent which a grant of permission would set for similar type developments, would result in the loss of some of the public open space provided as part of planning permission 12/102 for the overall development. The proposed development would injure the residential amenities and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer considered the proposed development in terms of the planning history and concluded that the proposed development to build on part of the public open space is not acceptable. It is further considered that the design and scale of the proposed house is too large for the plot, with inadequate rear and front garden spaces. The report concludes recommending that permission be refused and this recommendation formed the basis of the Planning Authority decision.

3.2.2. Other Technical Reports

The Executive Archaeologist notes that the site is located within the Recorded Monument, LI029-031, classified as the historic town of Rathkeale. The report notes

however, that there is currently and unfinished building on the site, and therefore groundworks have already been carried out. The report concludes that the site is a brownfield site and there are no archaeological issues.

3.3. **Prescribed Bodies**

Irish Water No objection, subject to Conditions

3.4. **Third Party Observations**

None

4.0 **Planning History**

4.1. **Application site**

PA ref 07/1545: Permission granted for the retention of existing divisional boundary walls that form 5 no. individual sites (one of which is for a semi-detached house) together with common access road and green areas. Permission also granted for completion of service connections together with the completion of the entrance from Pound Lane, completion of the main access roads and footpaths etc. Permission sought for 4 no. two storey detached houses and two no semi-detached houses together with associated site works.

The Board will note that the site the subject of the current appeal comprised half of a site proposed to accommodate one detached house – the overall site included the lands to the south of the proposed house.

PA ref 11/210: Permission refused for changes to proposal as granted permission under 07/1545 including changes to elevations and layout of dwellings 1, 2 & 3, site layout changes, site boundary changes and permission to retain dwellings nos 4, 5 & 6 as constructed and permission to complete construction including all associated site works. Reasons for refusal were as follows:

1. Having regard to limited length and configuration of rear gardens for individual dwellings, the development as constructed does not provide adequate private amenity space, constitutes a haphazard layout and excessive plot coverage, is overbearing and impacts negatively on adjoining property and would prejudice future development of adjoining

lands. Retention of the development as constructed, would create an undesirable precedent for further such substandard development within the town of Rathkeale.

2. The retention of revised site boundaries would materially contravene condition no. 5 of planning ref 07/1545 where 11 metre rear garden lengths were explicitly indicated on the site layout plan and would therefore be contrary to the proper planning and sustainable development of the area.

The Board will note that the current appeal site, included in the above decision, proposed a pair of semi-detached houses within the site. It is further noted that the area of the originally permitted site to the north west (proposed as open space) was omitted from this refused proposal. This open space area has been built upon so the only remaining open space area for seven houses in the development comprises the area of the subject site and the area to the south and east of this site.

PA ref 12/102: Permission granted for changes to proposal previously granted under planning reference 07/1545 including changes to elevations and internal layout of dwellings 1, 2 & 3 and retention of no. 4 as constructed, changes to site layout and site boundary and planning permission for the removal of partially constructed semi-detached dwellings 5 & 6 to facilitate new open space and all associated site works.

The Board will note that the site, the subject of the current appeal, comprises the area 'of partially constructed semi-detached dwellings 5 & 6 to facilitate new open space'.

4.2. **Adjacent sites**

Full details of Planning History are provided in the appendix to this report.

ABP ref PL91.2493075: Current appeal on site to the north of the landholding for the construction of dwelling, modify site entrance and reposition same and all associated site works at Fair Hill, Rathkeale, Co. Limerick.

5.0 Policy Context

5.1. Limerick County Development Plan 2010-2016:

5.1.1. The site is governed by the policies and provisions contained in the Limerick County Development Plan, 2010-2016 and Rathkeale Local Area Plan 2012-2018.

5.1.2. The site is within an area zoned existing residential within the LAP. The site is also located within the Special Development Area for Temporary Private Sites for Mobile Homes / Caravans. Chapter 4 of the LAP deals with housing while section 4.4 deals with Infill Development – Residential. The LAP states that the Council will encourage infill development in the town centre.

5.2. Natural Heritage Designations

None.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. This is a first party appeal against the decision of Limerick City & County Council to refuse planning permission for the proposed development. The grounds of appeal, submitted on behalf of the applicant by Seamus McElligott Planning & Design Consultant, are summarised as follows:

- This is a Traveller Estate of houses. There is no recognition in the LAP for Rathkeale that traveller estates are not like normal housing estates. These houses are owned by one family and no outsiders are permitted to buy or build in a family estate.
- For 9 months of the year the estate will be locked up.
- There is precedent in Rathkeale in terms of the provision of back gardens less than 11m in depth, where the minimum private yard area was provided. There is no need for 11m of rear garden and 90m² of private amenity space is provided for the house.
- There is permission for 7 houses in the wider landholding and the proposed house will make it 8 houses.

- The masterplan layout provides for 20% of the overall estate which is well in excess of the max of 15% required in the LAP and CDP.
- The provision of public open space in this seasonally occupied estate is a waste of time. The current Residential Density Guidelines reference providing only token open space areas in town centre sites.
- Public open space will provide parking for caravans at Christmas. The space will not be used as a 'public open space'.
- It is requested that the Board grant permission for the development.

6.2. **Planning Authority Response**

The Planning Authority has not responded to this appeal.

6.3. **Observations**

None.

7.0 **Assessment**

7.1. Having regard to the nature of the proposed development and the details submitted with the planning application and appeal documents, I conclude that issues arising for consideration should be addressed under the following headings:

1. The principle of the development & the compliance with the Local Area Plan
2. Planning History
3. Other Issues
4. Appropriate Assessment.

7.2. **Principle of the development & the compliance with the Rathkeale Local Area Plan:**

7.2.1. The site is located within the zoned area of the town of Rathkeale and is zoned 'existing residential'. The purpose of this zoning is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas. In this regard, I am satisfied that the principle of the development can be considered as acceptable.

7.2.2. Site specific issues are required to be addressed in accordance with the 'Sustainable Residential Development in Urban Areas', 2009 and the accompanying 'Urban Design Manual – A Best Practice Guide'. In addition, the planning history of the site, need to be considered. I am satisfied that in principle, the proposed development adequately accords with these guidelines.

7.3. Planning History

7.3.1. The Board will note the Planning History associated with the subject site. Of particular note is the decision pertaining to planning file reference 12/102. This application specifically sought permission for 'the removal of partially constructed semi-detached dwellings 5 and 6 to facilitate new open space'. The purpose of this came about due to the loss of the previously permitted open space area to the north east of the site, and where permission was granted for the construction of three further houses.

7.3.2. Conditions of PA ref 12/102 include condition 5 which states as follows:

Within one month of grant of this permission, the partially constructed dwellings No. 5 and 6, including all foundations shall be demolished and removed off site and made good with top soil and grass.

Condition 6 of the same decision stated as follows:

House No. 5 and No. 6 indicated on site layout plan under Planning Ref 07/1545 shall not be constructed.

Reason: In the interest of proper planning and sustainable development.

7.3.3. In addition to the above, I refer the Board to the planning history of the previous open space area associated with the original development site where the Board refused on two separate occasions, permission to construct three dwellings on the open space. Ultimately, the Planning Authority granted permission for the three houses in this area.

7.3.4. I note the commentary of the applicants' agent in terms of the perceived inadequacies of the Rathkeale Local Area Plan to deal specifically with Traveller Estates, but would suggest that residential amenities are an important consideration in all proposed developments. The Planning history associated with the subject site

would suggest that the provision of open space is important, and this is embedded in both conditions of previous permissions and indeed, in the development description of the most recent permission affecting the subject site. In this regard, I would consider that a grant of permission would result in the loss of part of the open space which was specifically provided in the description of the development under planning reference 12/102, which supports the wider estate. As such, the development, if permitted would be contrary to the proper planning and sustainable development of the area.

7.4. Other Issues:

- 7.4.1. In considering proposals for the proposed residential development, it is important that any design will respect and integrate with the surround area and seek to protect the visual amenities and residential amenities of properties in the vicinity. The proposed dwelling clearly reflects the design, scale and features of existing houses within this gated estate. In this regard, I would have no objections in principle to the proposed development.
- 7.4.2. The layout of the site provides for a rear west facing yard with a separation distance of between approximately 1.3m and 3.5m from the rear wall of the house. The proposed private amenity space is proposed to the north of the house, with the proposed building being constructed within 1m of the southern boundary. The land to the south of the proposed site also comprised part of the open space.
- 7.4.3. In terms of the depth of the rear garden, I would note that the house, if constructed, does not back onto other residential properties. The yard area for the hotel which fronts onto Main Street occupies the area between the subject site to the east and the Fair View residential estate to the west. I would have no objections in this regard.
- 7.4.4. In terms of private amenity space, the layout provides for a north facing amenity area and small rear garden of approximate area of 43m². There is a further small area located to the south west of the site in the amount of approximately 18m². Given the scale of the proposed house on the small site, it may be considered that the proposed development falls short. In terms of the other permitted houses within this estate, it would certainly appear that the private open space for proposed house is significantly smaller. The encroachment into the public open space within this family

estate further reduces the amenities for the occupants and in particular the children of the family.

7.5. **Other Issues**

7.5.1. Servicing:

The proposed development shall connect to existing water services within the estate. There is no objection in this regard.

7.6. **Appropriate Assessment:**

The subject site is located within the urban area of the town of Rathkeale and on a site where previous development works have been carried out. Given the brown field nature of the subject site, and having regard to the nature and limited scale of the proposed development, 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.

8.0 **Recommendation**

8.1. It is recommended that planning permission be refused.

9.0 **Reasons and Considerations**

1. The development as proposed, would result in the loss of an area of open space specifically provided for under permission reference 12/102, for the wider estate. The Board is satisfied, having regard to the inadequate private open space proposed for the scale of the house, that a grant of permission in this instance, would set an undesirable precedent for similar type developments, would injure the residential amenities of existing residents and would, therefore, be contrary to the proper planning and sustainable development of the area.

A. Considine

Inspectorate

11th January, 2018