



An
Bord
Pleanála

Inspector's Report PL91.249307

Development	Construction of a dwelling, modify an existing site entrance and reposition same and associated site works.
Location	Fair Hill, Rathkeale, Co Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	17/632
Applicant(s)	Connie Kealy
Type of Application	Planning Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Connie Kealy
Observer(s)	None.
Date of Site Inspection	11 th January, 2018
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 South of Fair Hill and includes the wider family home site, including the family house and its associated outbuildings. The location of the proposed new house is located to the front / north of the site to the front of an existing house. The wider family landholding extends to the south and includes a development of seven existing houses, which are accessed off Pound Lane to the east.

2.0 Proposed Development

- 2.1. Permission is being sought for the construction of a dwelling, modify an existing site entrance and reposition same 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 two cars. 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 green areas to the front and rear of the proposed house, with parking to the side. The overall height of the house is indicated at 7.958m to the ridge.
- 2.4. Access to the proposed house will be via a relocated entrance, which will serve both the proposed new house as well as the existing house on the site. The submitted Plans indicate that there is also a gate on the southern boundary which provides access to the wider family landholding. There are seven existing houses in the southern landholding plot.
- 2.5. The Board will note the concurrent appeal in relation to the construction of a house in the landholding, ABP ref PL91.249305 refers.

3.0 **Planning Authority Decision**

3.1. **Decision**

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

Having regard to the size and scale of the proposed development, the proposed site layout and its proximity to an adjoining dwelling it is considered that the proposal would detract from the pattern of development at this location, would create backland development 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.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The Planning Officers report formed the basis of the Planning Authority decision and considered that the proposed development in terms of the design and scale of the proposed house would be out of character with developments in the area. It is further considered that the open space provision is deficient and would result in the existing house being located in a backland location. The report concludes recommending that permission be refused.

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 98/8: Permission granted for the construction of a house with garage and entrance.

4.2. **Site to south**

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

ABP ref PL91.249305: Current appeal on site to the south of the landholding for the construction of dwelling, plot entrance, connect to public services including all associated site works at Fair Hill, Rathkeale, Co. Limerick.

5.0 **Policy Context**

5.1. **Development Plan**

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 large family plot and the existing dwelling will not be backland as this is not relevant or appropriate in an urban environment.
- The proposed dwelling has ample private amenity and car parking and existing private amenity is not compromised.

- The development is in keeping with recent permitted developments in the area.
- The house could be mirrored such that the first floor rear window would face onto the parking area and not onto the existing house.
- The applicant does not have a home and has to bring his caravan home at various times of the year.
- There were no third party objections.
- 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. Visual & Residential Amenity Issues
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 particular, I consider that issues relating to provision of open space, overlooking and overshadowing, are required to be addressed. These issues will be addressed further below but I am satisfied that in principle, the proposed development adequately accords with these guidelines.

7.3. **Visual & Residential Amenity Issues:**

7.3.1. 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 existing dwelling on the site is set back from the public road by approximately 30m. The house is almost in line with the existing house to the east, while the house to the west is located approximately 16 in front of the existing house on the site. The area to the front of the existing house is extensively paved with a small area of grass located in the vicinity of the proposed house. The boundary wall to the west of the site comprises a high old stone wall, which rises to approximately 2.5m in height. The proposed new house is to be located in the north western corner of the overall site, and set back between approximately 4 and 7m from the roadside boundary.

7.3.2. The Board will note that the Planning Authority considered that if permitted, the development would 'detract from the pattern of development at this location, would create backland development and would set an unwelcome precedent for this type of development'. While I accept that the dwelling, if permitted, would be located to the front of the existing house on the overall site, I would not consider that the development would significantly impact upon the residential amenities of the existing house. The overall site is very large for an urban site and there would appear to be extensive private open space to the rear of the existing house. In addition, the proposed development will not occupy the entire open space area to the front.

7.3.3. In terms of the pattern of development in the area, I would agree that the proposal to construct a house in the front amenity area of an existing house would not exactly reflect the pattern of development immediately adjacent to the site. That said however, given the urban nature of the site, it is commonplace for houses to be constructed closer to the road and footpaths. The three properties, including the

subject site being located centrally, would appear to the only houses in the immediate vicinity to have such large set backs from the public road. Given the nature of the western boundary wall, I would not share the same concerns of the Planning Authority that the development, if permitted, would detract from the pattern of development in the area.

- 7.3.4. The development seeks to provide for a house to be located within an urban setting which provides for adequate private amenity open space, is adequately separated from the existing house so as to prevent overlooking or overshadowing and will not diminish the existing private amenity space afforded to the existing house to such a degree as to impact on the existing residential amenities of the house. Overall, I am satisfied that the proposed development is acceptable.

7.4. **Other Issues**

7.4.1. Roads & Traffic:

The proposed development is seeking to relocate an existing residential entrance in an easterly direction, and away from the existing bend in the public road. The existing front boundary, which serves the existing house on the site, comprises a beautiful stone wall with railings on top and an evergreen hedge planted inside the wall.

- 7.4.2. The plans appear to suggest that a second small entrance will be provided to access the proposed new house. I would not consider that the proposed arrangement of both access points to be appropriate or acceptable. In particular, I would note that the proposed smaller entrance is only 3m in width and would provide for inadequate turning for a car. In principle, I have no objection to the moving of the entrance in an easterly direction, and should the Board be minded to grant permission for the proposed house, the smaller of the access points, immediately to the north of the proposed house, should be omitted by way of condition.

7.4.3. Servicing:

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

7.5. 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 granted for the proposed development, subject to compliance with the following conditions:

9.0 Reasons and Considerations

Having regard to the provisions of the current Rathkeale Local Area Plan, 2012-2018, the existing established residential use, the pattern of existing and permitted development in the vicinity and having regard to the information submitted as part of the planning application together with the information submitted in the appeal, the Board is satisfied that, subject to compliance with the following conditions, the proposed development generally accords with the policy requirements of the relevant plan as it relates to residential developments, would be acceptable in terms of servicing, traffic safety and would not injure the existing visual and residential amenities of properties in the vicinity of the site. It is further considered that the development would be acceptable in terms the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, submitted the 4th day of July, 2017, together with the details submitted to An Bord Pleanala on the 5th day of October, 2017, except as may otherwise be required in order to comply with

the following conditions. Where such conditions require points of detail to be agreed with the planning authority, these matters shall be the subject of written agreement and shall be implemented in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. No permission is granted for the establishment of a second vehicular access to the site. The access indicated directly to the north of the proposed new dwelling shall comprise a small pedestrian gate only.

The alterations to the front boundary and the provision of the relocated vehicular access shall be carried out in the first instance and prior to the commencement of any development works on the house.

Full details of the proposed front (north) boundary shall be submitted for the written approval of the Planning Authority prior to the commencement of any development on the site.

Reason: In the interests of traffic safety, visual amenity and the proper planning and sustainable development of the area.

3. The external finishes of the proposed house shall be in accordance with the plans and particulars submitted in support of the proposed development.

Reason: In the interest of visual amenity.

4. Notwithstanding the exempted development provisions of the Planning and Development Regulations, 2001, and any statutory provision replacing or amending them, no development falling within Class 1 or Class 3 of Schedule 2, Part 1 of those Regulations shall take place within the curtilage of the house, without a prior grant of planning permission.

Reason: In order to ensure that a reasonable amount of rear garden space is retained for the benefit of the occupants of the extended dwelling and in the interest of the amenities of the area.

5. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance

with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July 2006.

Reason: In the interest of sustainable waste management.

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.

A. Considine

Planning Inspector

12th January, 2018