



An  
Bord  
Pleanála

## Inspector's Report ABP0-300432-17

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<b>Development</b>	Amendment to Planning Permission 17/464 to include a change of site layout and change of house designs
<b>Location</b>	Chapel Lane, Rathkeale, County Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	17/890
<b>Applicant(s)</b>	Joseph Quilligan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Joseph Quilligan
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	22 <sup>nd</sup> February, 2018
<b>Inspector</b>	Kevin Moore

## 1.0 Site Location and Description

1.1. The site of the proposed development is located on the east side of Chapel Lane off Roches Road just off the town centre of Rathkeale, County Limerick. There is an existing single-storey house on the site and a number of caravans. There is extensive housing in the immediate vicinity of the site.

## 2.0 Proposed Development

2.1. The proposed development would comprise an amendment to Planning Permission 17/464 to include a change to the site layout and changes to the house design of the two permitted houses and to allow for the temporary parking of a maximum of two caravans. The total gross floor area of the proposed houses would be 373.43m<sup>2</sup> and they would be located on a site with a stated area of 0.62 hectares.

## 3.0 Planning Authority Decision

### 3.1. Decision

On 21<sup>st</sup> November, 2017, Limerick City & County Council decided to grant permission for the proposed development subject to five conditions.

Condition 4 was as follows:

*“4. There shall be no parking of caravans to the front, side or rear of the dwellings at any time.*

*Reason - In the interest of orderly development.”*

Condition 5 was as follows:

*“5. Prior to the commencement of development the applicant shall submit to the planning authority for agreement in writing the following revisions to the design and layout of the development*

*a. The dwellings shall have a maximum ridge height of 8.5 metres.*

*b. The bays windows on the front elevation shall be omitted.*

*c. The houses shall be relocated in a westerly direction to provide a minimum rear garden depth of 11 metres.*

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

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted development plan provisions and concluded that temporary caravan spaces as proposed should not be permitted. The requirements for site layout changes and design, by way of condition, in the decision relating to the proposed development under P.A. Ref. 17/464 were noted and it was acknowledged that the proposed development does not reflect these. It was considered that the proposed layout does not meet minimum standards for rear garden private open space. It was stated that the site has adequate space to bring the houses further forward. It was submitted also that, to reduce the massing of the houses, the bay windows to the front should be omitted and the height of the houses reduced to 8.5m. A grant of permission was recommended.

#### **3.2.2. Other Technical Reports**

The Environment Engineer had no objection to the proposal.

### **3.3. Prescribed Bodies**

Irish Water had no objection the proposal.

## **4.0 Planning History**

### P.A. Ref. 17/464

Permission was granted, subject to 21 conditions, for the demolition of an existing dwelling and the construction of two dwellings, site entrances, and connection to services including all associated site works. The development was similar to that now before the Board. Condition 3 required the same design changes that are now proposed by the planning authority and Condition 15 prohibited the parking of caravans to the front, side or rear of the dwellings.

## 5.0 Policy Context

### 5.1. Rathkeale Local Area Plan 2012-2018

#### Zoning

The site is zoned 'Existing Residential'.

#### Traveller Accommodation

The site is located within a designated Special Development Area for Temporary Private Sites for Mobile Homes/Caravans. The following objective applies:

*Objective H6: Special Development Area for Temporary Private Sites for Mobile Homes /Caravans*

It is an objective of the Council in compliance with Objective SS O11 of the County Development Plan, to

- a) Provide a Special Development Area as outlined in Map 5 to facilitate a limited number of temporary private sites for mobile homes/caravans in accordance with the 'Guidelines for Accommodating Transient Traveller Families' and the policies, objectives and Development Management Standards contained in the Limerick County Development Plan, 2010-2016 as varied.
- b) Ensure that proposals for Temporary Private Sites for Mobile Homes/Caravans are planned coherently and in accordance with the following conditions:
  - i) In general a maximum of 5 mobile homes/caravans to be permitted on any one site.
  - ii) Planning permission to be permitted for a maximum period of 10 years for any site.
  - iii) Layout and construction of sites to comply with DoECLG Guidelines including issues relating to:
    - Spacing of mobile homes /caravans
    - Provision of services (electricity, water, waste, public lighting, etc)
    - Provision of children's play area
    - Car/vehicle parking
    - Fire safety requirements
    - Landscaping and screen planting proposals

iv) All site works and construction of all services to be completed and certified in accordance with the planning permission prior to any mobile home/caravan being placed on the site.

## 5.2 Limerick County Development Plan 2010-2016

### Development Management Standards

#### *Residential Development*

The design guidelines for urban residential developments includes the following:

##### **Front Garden length**

Generally 6 metres, but where ground floor dwellings have little or no front gardens a 'defensible space' must be created behind the public footpath, such as a planting strip. Notwithstanding this, the importance of maintaining building lines and providing adequate car parking will also be taken into account. Variation in building lines will be permitted provided that there is overall coherence to the design.

##### **Minimum Rear Garden length**

In general a minimum back to back distance between dwellings of 22 metres shall apply in order to protect privacy, sunlight and avoid undue overlooking. Reductions will be considered in the case of single storey developments and/or innovative schemes where it can be demonstrated that adequate levels of privacy, natural lighting and sunlight can be achieved.

#### *Infill Residential Development in Towns*

The following guidelines should be applied to infill sites in street locations:

- The site density, coverage and open space requirements will be considered on a site-specific basis to permit a development to integrate with the existing adjoining development. The development management standards set out for new residential developments may be relaxed in the case of infill developments.

- Design, height, scale, materials used and finishes should respect existing adjacent properties.
- Boundary treatment should ensure an effective screen between proposed and existing development.
- Private open space should provide space for bin and fuel storage areas.
- Car parking provision in accordance with standards outlined in this plan or in cases where this is not possible a contribution to the Planning Authority towards the provision or improvement of alternative car parking in the area.

The design of these infill sites shall be in accordance with the principles set out in 'Sustainable Residential Development in Urban Areas, Guidelines for Planning Authorities' May 2009 and the accompanying Urban Design Manual.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The appeal relates to the attachment of Conditions 4 and 5 (b) and (c) with the decision of the planning authority. The grounds of the appeal may be synthesised as follows:

#### Condition 4

- The applicants comprise a traveller family who work on the continent, return at various times, and bring their caravans with them. The site is located within an area where there is a special policy on parking of caravans. The applicants have been up front on the need to strike a balance on providing necessary private amenity yard space, while maintaining appropriate front yard space for storing a caravan on each plot.
- The Board previously, under Appeal Ref. PL 13.243516, considered that it was reasonable to allow the seasonal parking of a caravan on the plot where it is indicated that the sanitary facilities of the respective dwellings would be used by the inhabitants of the caravans. This is the only option traveller families have when they return.

- By applying the condition, the Council is having complete disregard to their LAP.

#### Condition 5(b)

- The proposed front projecting gables avoid the complexity of separate bay roofs and roof directly into the main dwelling.
- Under P.A. Ref. 14/1148, the Council had no objection to granting permission for a dwelling that had a full two-storey 45 degree shaped front projecting section within 100m of the site. The proposal is very much in keeping with local architecture as much as that which was permitted.

#### Condition 5(c)

- This condition appears to be such as to frustrate the site layout to assist in limiting the potential to build a family home as well as facilitating the temporary parking of caravans.
- The opposing dwelling to the rear is a single storey dwelling on Roches Road and the 11m guide does not apply.
- For seasonal use, the level of private amenity space is more than adequate.
- Planning permission has been granted in Rathkeale for development providing private open space for as little as 25m<sup>2</sup>. Reference is made to P.A. Ref. 12/803.
- Key to the entire design is the positioning of the dwellings to facilitate adequate private amenity space as well as providing space to facilitate the parking of caravans.

## 6.2. **Planning Authority Response**

I have no record of any response from the planning authority to the appeal.

## 7.0 **Assessment**

### 7.1. Introduction

7.1.1 I am satisfied, having examined the details of the application and having visited the site, that the determination of the application by the Board, as if it had been made to it in the first instance, would not be warranted. Accordingly, I consider that it is appropriate to use the provisions of section 139 of the Local Government (Planning and Development) Act, 2000, as amended, and to consider the issues arising out of the disputed conditions only.

## 7.2 Condition 4

7.2.1 Condition 4 of the planning authority's decision seeks to eliminate parking of caravans on the site. The reason given for this condition was "In the interest of orderly development". The first observation I make on this condition is that it seeks to de-exempt the parking of caravans that would otherwise be permissible under Class 8 of Part 1, Schedule 2 of the Planning and Development Regulations 2001, which allows for the storage of a caravan on a residential property for up to nine months in any year. A second observation to be made is that, at this location, there is extensive parking of caravans on residential properties.

7.2.2 I note the planning authority's proposals under Objective H6 of the Rathkeale Local Area Plan, which seeks to provide a Special Development Area in this general area to facilitate a limited number of temporary private sites for mobile homes/caravans in accordance with the 'Guidelines for Accommodating Transient Traveller Families' and the policies, objectives and Development Management Standards contained in the current Limerick County Development Plan. It is my submission to the Board that, where no such orderly and coherent development of such facilities have been provided, one must be reasonable in the approach to caravan parking at this location and be particularly reluctant to de-exempt provisions under the Planning Code during an interim period where no such facilities are in place. At this time, it is my submission to the Board that Condition 4 is unfair and unwarranted. It should be omitted. It is no more disorderly to permit parking at this site than others in the immediate vicinity and the reason for Condition 4 is not valid at this time.



### 7.3 Condition 5(b)

7.3.1 Condition 5(b) seeks the omission of the bay windows on the front elevation of the proposed houses and the reason given by the planning authority for this condition was “In the interest of proper planning and sustainable development of the area.” It is my submission to the Board that this condition is unnecessary and demonstrates some degree of inconsistency in the control of development at this location by the planning authority. I first note that the adjoining detached two-storey house immediately to the north of the appeal site has a front elevation that generally reflects the type of proposed window design on the front elevations of the permitted two houses on the appeal site. Further to this, I note that in the immediate vicinity of the site there is a vast array of building types, designs, fenestration, openings, etc. to residential properties. I do not understand how it can reasonably be determined that the omission of the proposed windows in the front elevations of the houses would be “In the interest of proper planning and sustainable development of the area.” Condition 5(b) should be omitted.

### 7.4 Condition 5(c)

7.4.1 Condition 5(c) seeks the relocation of the houses in a westerly direction to provide a minimum rear garden depth of 11 metres. The reason given for this condition is “In the interest of orderly development”. I submit to the Board that the intent of the proposed relocation appears to seek the elimination of caravan parking on this site and is not “In the interest of orderly development” so determined by building lines or other matters. This issue requires to be assessed against the planning authority’s relevant Development Management Standards for residential development and infill development in the first instance.

7.4.2 My considerations on these matters are as follows:

- The proposed building line for the houses will exceed a front garden length of 6 metres generally required for urban residential developments. In considering this issue further, I must acknowledge that there is no consistent established building line along the east side of Chapel Lane at this location, with the existing house on the site projecting significantly further forward of the house to the north and a shed to the south of the site being constructed close to the

road carriageway edge. The applicant's proposed building line would be significantly more in keeping with that of the established house to the north than that resulting from Condition 4 of the planning authority's decision.

- I acknowledge the urban structure at this location and the forms and layouts of dwellings that have developed over time. It is notable that the single-storey houses on Roches Road to the rear of the site are developed very close to their rear site boundaries, so much so that there is effectively no rear garden space. The proposed development seeks to provide back yards in this town centre location, which is just off the main street of the town. The development would lie immediate west of houses on Roches Road. Having regard to the form, layout and location of the proposed and existing development, it my submission to the Board that the proposed development would not significantly increase any degree of intrusion on privacy over that which would exist under the existing arrangements on the site. There will be no significant degree of overlooking, over bearing impact or overshadowing of neighbouring properties, while yard space to the rear will be provided for both proposed houses. I am, thus, satisfied to conclude in this instance that the private yard space to the rear as proposed is acceptable.
- The density, site coverage and private space requirements proposed to be provided on this site are not incompatible with the form of development in the immediate vicinity.
- The design, height, scale, materials to be used and proposed finishes of the houses would respect existing adjacent properties.
- Adequate boundary treatment is being provided.
- Private open space to the rear provides space for bin and fuel storage.
- The curtilage to the front of the proposed houses would provide for adequate off-street parking.

7.4.3 Having regard to layout of the proposed development adequately providing for the needs of the occupants of the proposed houses, without adversely impacting on adjoining residential properties and while complying significantly with relevant

development management standards as set out in the Development Plan, it is my submission to the Board that Condition 5(c) should be omitted.

## **8.0 Recommendation**

Having regard to the nature of condition numbers 4, 5(b) and 5(c) the subject of the appeal, the Board is satisfied that the determination by the Board of the relevant application as if it had been made to it in the first instance would not be warranted and directs the said Council under subsection (1) of section 139 of the Planning and Development Act, 2000 to:

REMOVE Condition numbers 4, 5(b) and 5(c) and the reasons therefor.

## 9.0 Reasons and Considerations

It is considered that:

- Condition No. 4 would be overly prohibitive at this time where adequate alternative caravan parking provisions remain unavailable and that the allowance of caravan parking on the site would be in accordance with the established pattern of development in the area;
- The application of Condition No. 5(b) would be inconsistent with previously permitted development in the immediate vicinity of the site and the proposed window design would not be out of character with the pattern of development in the area;
- Condition No. 5(c) is unnecessary where adequate private amenity space is being provided within the curtilage of the site to meet occupants' needs, where the proposed development would result in no significant adverse impact on the residential amenities of adjoining properties, and where the proposed layout provides a balanced approach to achieving an appropriate building line.

The proposed development would, therefore be in accordance with the proper planning and sustainable development of the area.

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Kevin Moore  
Senior Planning Inspector

8<sup>th</sup> March 2018

