



An
Bord
Pleanála

Inspector's Report ABP 300599-18

Development	Dwelling, site entrance and all associated site works.
Location	Enniscoush, Rathkeale, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	17/935
Applicant	Margaret Boswell
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	1 st Party v. refusal
Appellant	Margaret Boswell
Observers	Pat Hayes & Others
Date of Site Inspection	28/03/18
Inspector	Pauline Fitzpatrick

1.0 Site Location and Description

- 1.1. The site, which has a stated area of 0.043 hectares, is accessed from a cul-de-sac road (L-52307) off Church Street (R253) at the western end of Rathkeale town. The site, which is irregular in shape, forms part of a larger holding which includes frontage onto Church Street to the north-east. The overall site is served by two gated accesses from the local road. The roadside boundary is delineated by a wall, part of which is of stone construction. It is bounded by lands within the applicant's family ownership to the north-west on which 2 no. semi-detached dwellings with frontage onto Church Street, are under construction. A shed has been retained to their rear. A cul-de-sac which provides access to the rear of a terrace of two storey dwellings which front onto Church Street bounds the site to the south/south-west. The overall site boundary to the said lane is delineated by a post and wire fence. As the site forms part of a larger plot there is no delineation to the south-east. The said lands to the south-east slope up from the road with the rear boundary delineated by a hedgerow and a line of coniferous trees delineating the eastern boundary. A single storey dwelling bounds the overall site to the south-east with a two storey dwelling to the north-east on the opposite side of the road. Further one off housing of varying designs in addition to a boxing club facility and sheltered housing, are to the south along the local road. Stretches of the roadside boundaries both to the north-west and south-east are delineated by stone walls.
- 1.2. The junction of the local road and Church Street is governed by a yield sign with sight lines noted to be good in both directions. The 50kph speed limit prevails. Vehicular movements along the local road were noted to be light.

2.0 Proposed Development

The proposal entails the construction of a two storey dwelling with a stated floor area of 166.71 sq.m. to be served by a new access from the local road.

The application is accompanied by an Archaeological Impact Assessment dated September 2016 which entailed a desktop study to assess the potential impact of development. It notes that development may have a negative impact on potential

subsurface unrecorded archaeology of the site. It recommends archaeological testing by way of condition.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for the above described development for two reasons which can be summarised as follows:

1. Having regard to the site layout and house design the proposal would result in overdevelopment, give rise to substandard level of residential amenity, would seriously injure the amenities of the area and property in the vicinity and would set an undesirable precedent.
2. The planning authority is not satisfied that the proposal would not be injurious to Recorded Monument L1029-031.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's report details the planning history on the appeal site and adjoining lands. The site layout plan is irregular in shape which will require the dwelling to be built right up against the site boundary. This is not acceptable and would lead to unnecessary overlooking of neighbouring property. There is a current application for a dwelling on the adjoining site to the east under ref. 17/936. Both applications should be revised to provide a coordinated development that is carried out in a sequential manner with one shared access off the public road. All dwellings should be laid out so they are in keeping with the character of the local road and should avoid unnecessary overlooking of adjoining property with proper parking provision and adequate and usable open space.

3.2.2. Other Technical Reports

Area Engineer notes that the sightlines onto L52307 and at the junction of the R523 & L52307 are poor. Further information is required on the site access, road

construction details, surface water drainage, swept path analysis for service vehicles and compliance with County Development Plan parking standards.

3.3. **Prescribed Bodies**

Irish Water has no objection

3.4. **Third Party Observations**

Submissions received by the planning authority have been forwarded to the Board for its information. The issues raised relate to the planning history on the site, impact on character of area, access and traffic, amenities of adjoining property, adequacy of archaeological assessment, precedent that would be set.

4.0 **Planning History**

16/531 – permission granted in July 2017 for demolition of dwelling that fronted onto Church Street immediately to the north of the appeal site and construction of 2 no. semi-detached dwellings. Construction has commenced on same

16/116 – permission refused in April 2016 for a dwelling on the site subject of the current appeal subject to three reasons largely comparable to those as summarised above.

16/532 – permission refused in August 2016 for 2 detached dwellings on a site which included the site subject of this appeal. One of the dwellings was proposed in the location of the current appeal with the 2nd in the south-eastern corner of the overall site. The three reasons for refusal can be summarised as follows:

1. Scale, design and layout would result in piecemeal and overdevelopment of the site, substandard amenity for prospective applicants, negative impact on amenities of adjoining property and undesirable precedent set.
2. Endanger public safety by reason of traffic hazard due to the traffic movements that would be generated where the sightlines are restricted.
3. In the absence of an archaeological assessment the planning authority is not satisfied that the proposal would not be injurious to Recorded Monument LI029-031 in terms of physical and visual impact.

17/936 – permission refused in November 2017 for a dwelling in the south-eastern corner of the overall site referred to in 16/532. The two reasons for refusal can be summarised as follows:

1. Design and site layout does not reflect a sequential pattern of development, haphazard and overdevelopment of the site, substandard amenity for prospective applicants, negative impact on amenities of adjoining property and undesirable precedent that would be set.
2. Having regard to the archaeological assessment report submitted the planning authority is not satisfied that the proposal would not be injurious to Recorded Monument LI029-031 in terms of physical and visual impact.

5.0 Development Plan

5.1.1. Rathkeale Local Area Plan 2012-2016 (extended)

The site is within an area zoned 'Existing Residential'. The purpose of the zoning is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

5.1.2. Limerick County Development Plan 2010 - 2016 (as extended)

Chapter 10 sets out the Development Management Guidelines

Houses should be designed in such a manner as to minimise overlooking and overshadowing of adjoining residences.

Table 10.1 Design Guidelines for Urban Residential Developments

- Front garden lengths should generally be 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.

5.2. Natural Heritage Designations

None

6.0 The Appeal

6.1. Grounds of Appeal

The submission by Seamus McElligott, on behalf of the 1st Party against the planning authority's notification of decision to refuse permission, can be summarised as follows:

- The permission granted for 2 no. dwellings on an adjacent site set a precedent for the site development in terms of dwelling height and density. The proposal has a larger plot than either of the dwellings granted under ref. 16/531.
- The masterplan of how the remaining landholding could be developed can be amended should the planning authority require. The reason for the separate applications by family members is so they have their own separate planning reference numbers associated with their development.
- There is an existing access serving the site. Its relocation is so as to work with the proposed layout. The Board has previously determined that traffic in an urban area is self-regulating (PL91.246954).
- The house design is consistent with that granted permission under ref. 16-531. Concerns about height could be addressed by way condition.
- Ample off street parking can be provided.
- There is 107 sq.m. private open space to the rear of the dwelling which exceeds the 90 sq.m. LAP requirement for 3 no. double bedrooms. It does not give rise to a substandard level of residential amenity.

- The proposed dwelling overlooks the 5 metre wide public right of way to the rear of the dwellings on Church Street. The said dwellings have rear gardens 30 metres long. Overlooking of the said laneway would be a positive in terms of deterring anti-social behaviour.
- Archaeological assessment was undertaken which concluded that there would be no impact. An internal report by the City and County Council's Archaeologist is not on file.

6.2. Planning Authority Response

None received.

6.3. Observations

An observation by Pat Hayes & Others which is accompanied by supporting documentation can be summarised as follows:

- The masterplan referred to is a declaration of intent regarding the future development of the entire site. The site map attached to application 17/936 which was refused permission delineates four houses.
- The current application and that to which application 17/936 refers are part of the same overall development.
- In terms of access and traffic reference to appeal file no. PL91.246954 is misleading. The topography of the site is different from anywhere else in the town.
- The reference to an existing entrance is misleading. When the dwellings granted under ref. 16/531 are completed the existing entrance from Enniscoush will be partially blocked off as per a condition attached to the decision. A new site entrance would be required to serve the proposed development.
- Only a small part of the wall along Enniscoush is a 1980's block wall. Most of the wall is of dry stone construction. The provision of a footpath along the road frontage would result in the removal of the wall and would have an impact on the visual amenities. It would also allow for on road parking.

- Enniscough is a narrow road which would not be capable of accommodating the additional traffic.
- The semi-detached houses granted under 16/531 are accessed and visually perceived from Church Street. The proposed dwelling is out of character with the existing houses along the road.
- The lane adjacent to the site boundary is not a public right of way. It is gated and services 6 houses along Church Road. No anti-social behaviour has been recorded save in one instance.
- The concerns regarding the archaeological assessment remain unchanged.

6.4. **Section 131 Notices**

Certain prescribed bodies were invited to make a submission/observation on the appeal. No responses received.

7.0 **Assessment**

I consider that the issues arising in the case can be assessed under the following headings:

1. Suitability of layout and design
2. Site Access
3. Archaeology
4. Appropriate Assessment

7.1. **Suitability of layout and design**

In view of the 'existing residential' zoning provisions for the site the proposed development is acceptable in principle.

The site forms part of a larger landholding on which permission for the demolition of a dwelling that fronted onto Church Street and its replacement with 2 no. two storey semi-detached dwellings was granted under planning reference number 16/53.

Construction has commenced on same. I note that permission has previously been refused for development to the rear of same under refs. 16/116, 16/532 and 17/936

with the planning authority unequivocal in its conclusions that the developments constituted piecemeal development with inadequate amenities for prospective applicants. As evidenced from the plans accompanying the said applications development of the remaining lands to accommodate in the region of 5 houses is envisaged. As per the grounds of appeal in this case the future development of these lands remains an objective with reference made to the masterplan of the overall lands.

The proposal, subject of this appeal, refers to the section of the holding immediately to the rear of the dwellings permitted under ref. 16/ 531 and the existing garage being retained (to be incorporated into the rear garden of one of the dwellings). The site configuration is somewhat awkward wrapping around the laneway to the rear which facilitates rear access to the dwellings that front onto Church Street. It is not unreasonable to assume that this layout is so as to allow for the development on the remaining lands as delineated on plans that accompanied the applications referenced above. As a consequence, the rear of the dwelling immediately abuts the boundary with the lane resulting in a narrow private open space with a stated area of 107 sq.m.

I submit that the site does not have the characteristics of what would normally be considered to constitute an infill site whereby certain concessions such as configuration of private open space etc may be countenanced to allow for development of scarce, zoned and serviced lands subject to due cognisance of the amenities of adjoining property. I would also submit that it is not directly comparable to the north-western portion of the overall site on which permission has been granted for two semi-detached dwellings which present onto and are viewed within the context of the established streetscape on Church Street. The site clearly forms part of a larger site which is subject of the same zoning provisions.

The proposal would not result in overdevelopment of the site as cited by the planning authority in its first reason for refusal. However, taking into consideration the information on file, including reference to a 'masterplan' for the overall landholding, I would have serious reservations that a positive decision in this regard would endorse the inappropriate and uncoordinated piecemeal development of this landholding. It would, in my opinion, set an undesirable precedent in this regard and may serve to undermine the potential for the holding's optimum development for residential

purposes whilst ensuring appropriate amenities for both prospective occupants and existing residents in the vicinity. I therefore agree with the substance of the planning authority's 1st reason for refusal.

By reason of the setback of the dwelling from the dwellings under construction to the north and its location relative to the rear of the terraced dwellings to the south-west which are served by long rear gardens I do not consider that issues would arise in terms of overlooking or loss of privacy. There is a mix of house designs evident in the immediate vicinity ranging from single storey and dormer in addition to the two storey dwelling to the south-east on the opposite side of the road and the semi-detached units currently under construction with frontage onto Church Street. With a ridge height of 8.913 metres on a site which is level with the road I do not consider that the dwelling would be visually incongruous and is acceptable.

7.2. Site Access

The proposed development is to be served by an access from the local road which largely corresponds with the existing access which is earmarked for closure consequent to the development of the two storey dwellings currently under construction to the north-west under planning reference. Whilst I note that condition 16 attached to the permission for the said dwellings under ref. 16/531 precluded a rear access to same I do not consider that the proposal would contravene the intention of the condition were it to serve proposed development, only.

The local road, whilst served by street lighting, does not have the benefit of footpaths with both one off and clustered housing in addition to community facilities (hall and boxing club) to the south-east of the site. On street parking was noted on the opposite side of the road. The site is within the 50km/hr speed limit.

Whilst sightlines are hindered due to the presence of an existing utility pole its relocation would address concerns in this regard. Sight lines at the junction of the local road and Church Street are also considered to be adequate.

I submit that the vehicular movements that would be generated by the dwelling could be accommodated without giving rise to concerns in terms of traffic hazard.

However, I consider that the development of the overall landholding served by one access would be appropriate for the reasons as cited above.

7.3. Archaeology

The site is within the zone of archaeological potential for recorded monument LI029-031001 the Historic Town of Rathkeale. The application is accompanied by an Archaeological Impact Assessment of the overall holding which recommends that archaeological testing be required by way of condition should permission be granted. I note that the planning authority referred the application to the Departments of Arts, Heritage, Regional, Rural and Gaeltacht Affairs. No submission was received. The Board also referred the appeal to the said Department. Again no submission was received.

On balance and taking into consideration the detail on file I consider any archaeological issues arising could be addressed by way of condition should the Board be disposed to a favourable decision.

7.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development on serviced zoned lands in the town centre it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

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

9.0 Reasons and Considerations

Having regard to the location and configuration of the site and its relationship to other 'Established Residential' zoned lands in the immediate vicinity, it is considered that the proposed development, by reason of its layout and design would constitute haphazard, piecemeal development which would prejudice the orderly development of adjoining zoned lands in the vicinity and would, therefore, contravene materially the said zoning objective for the area which seeks to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas.

Pauline Fitzpatrick
Senior Planning Inspector

May, 2018