



An
Bord
Pleanála

Inspector's Report ABP.300757-18

Development	Construction of a dwelling, plot entrance, connect to services and associated site works
Location	Fairhill, Rathkeale
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/995
Applicant(s)	Danny Sheridan
Type of Application	Planning permission
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Danny Sheridan
Observer(s)	None
Date of Site Inspection	9 th June 2018
Inspector	Mary Kennelly

1.0 Site Location and Description

- 1.1.** The site is located within the built-up area of Rathkeale Town, in an area known as Fairhill, to the north of the main street. The site is accessed from a street named Fairhill which runs parallel to the main street. Thomas Street, which is one-way, provides the main vehicular access to Fairhill, but there is a series of narrow lanes which also connect the main street with the lands to the north. One such lane, Peppard's Lane, runs to the west of the subject site. The sites to the rear of the main street are long and narrow (c. 120m)
- 1.2.** The backland site forms part of a larger land holding which includes a 2-storey building fronting the main street. There is a site in separate ownership with 3 further plots located immediately to the north. There is also a further plot in separate ownership immediately to the east. Planning permission has been granted for a single dwelling on each of these four plots. The site of the current proposal is located closest to the existing building and access would be available along the eastern side of the northern plots. The lands to the west of the landholding have frontage to Peppard's Lane and include an existing 2-storey dwelling at the northern end and a further 2-storey dwelling midway along the lane. The lands to the east include a two-storey dwelling at the northern end fronting onto Fairhill.
- 1.3.** I was unable to gain access to the site, despite contacting the applicant's agent in advance. It was advised that the applicant was out of the country and would not be back until at least August. Efforts were made to seek a keyholder, but without success. I was able to view the overall lands from Fairhill through a gap in the gate and have attached a photo of same. However, there is a large bush which restricts views of the site itself.

2.0 Proposed Development

- 2.1.** It is proposed to erect a two-storey dwelling, which would be fully serviced, together with all associated and ancillary works. The dwelling would be accessed from Fairhill via a proposed private lane. The submitted drawings show a rectangular shaped footprint of approx. 11.5m x 7.5m, with an annexe, and would be set back approx.

10m from the southern boundary with the main building, and would abut the rear and side boundaries. The site layout plan shows a single parking space to the east of the site, just outside the red line boundary. A revised plan was submitted with the appeal showing the parking space within the red line boundary. There are 2 bathroom windows on the western boundary at first floor level, but otherwise all window openings are shown on the southern and eastern elevations.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to refuse permission for one reason which was based on the following elements:

- Out of character with pattern of development in the area.
- Overdevelopment of the site – which would result in a deficient private amenity space and an absence of car parking space. This would injure the residential amenities of the area and depreciate the value of properties.
- Contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

It was noted that the site is zoned existing residential and that planning permission has been granted for three dwellings and for one dwelling on the adjacent sites to the north and east, respectively. It was noted that as the proposed dwelling would be sited on the rear and western boundaries, there is no rear garden space proposed and that the proposed parking space was located outside of the site boundary. On this basis it was considered that the proposed was unacceptable and represented over-development. The following comments were also made:-

- No details have been provided in respect of boundary treatments.
- The site layout shows the proposed house extending beyond the site boundary, which is unacceptable.

- The development should not result in a significant effect on the conservation status of any European site and that Appropriate Assessment is not required.

It was concluded that the proposed development should be refused.

3.2.2. Other Technical Reports

Environment – no objection to a grant of permission.

Archaeology – The proposed development is located within the Recorded Monument L1029-031, classified as the historic town of Rathkeale. The proposed development is small in scale with previously altered ground surfaces. Consequently, there are no archaeological issues regarding this application.

3.3. Prescribed Bodies

Irish Water (2/12/17) – The drawings and specifications provided do not provide IW with sufficient data to make a determination on the development further information is required in respect of the design of the foul sewer and public water connections. Details were also requested regarding disposal of surface water

3.4. Third Party Observations

None.

4.0 Planning History

Adjacent sites

16/817 – planning permission granted for construction of 3 no. detached dwellings, to re-use/modify existing entrance, construction of a service road and connection to services on site to north. Applicants John and Patrick Quilligan

16/688 – planning permission granted for one detached dwelling on site to east, including connection to services. Applicant Patrick Quilligan.

5.0 Policy Context

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

5.2 Rathkeale Local Area Plan 2012 2018 (as extended) –

Rathkeale is designated as a Tier 3 town in the Settlement Strategy for Co. Limerick and Objectives SS01-08 apply. Tier 3 towns are generally located on major transport corridors and are promoted as secondary development centres for significant future development. However, no significant development has taken place within the town since the adoption of the LAP and the Chief Executive has extended the life of the LAP to 2022.

The site is zoned Existing Residential, the objective for which is “To ensure that new development is compatible with adjacent uses and protect the amenity of existing residential areas.” There are a number of Opportunity Sites within the town, three of which are located in and around Fairhill. The lands to the north and northwest of the appeal site are included in Area 4 and Area 5, respectively, but the appeal site is not included within these Opportunity Areas. The objective is to encourage the restoration, consolidation and improvement of sites.

5.2. Natural Heritage Designations

There is one European site within 15km – Askeaton Fen Complex, which is 12km from the site.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal was submitted by Seamus McElligott Planning Consultancy on behalf of the applicant. The main points raised may be summarised as follows:

- The applicant owns the property fronting Main Street and the ownership includes a small section of land to the north and east (as shown in blue on

plan submitted with grounds of appeal). The proposed dwelling is for a family member.

- Given that the applicant owns the overall lands shown in blue on the plan submitted with the grounds of appeal, parking can be provided wherever required within these lands. Notwithstanding this, the applicant has now proposed to provide a parking space within the red line boundary.
- The Old Coach House is a derelict building within the landholding, which could have been developed instead by means of conversion.
- Adequate open space is available on site as it is proposed to provide 60m². Within Exempted Development guidelines, all other matters being complied with, private open space can be reduced to 25m², and thus the 60m² proposed is more than adequate.
- The only element of encroachment is the gable overhang by 225mm, which is over lands in the applicant's ownership.
- The windows in the rear elevation are to non-habitable rooms, (bathrooms), which can be omitted if required and replaced by rooflights.

6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows:-

- Overdevelopment of the site
- Residential amenity

7.2. Overdevelopment of the site

7.2.1 The location of the site on residentially zoned and serviced land, within an established housing area, means that the development of the site as infill development is acceptable in principle. However, the Local Area Plan makes it clear that infill development is only appropriate where suitable sites and site conditions exist and that the impact on the residential amenities of the neighbouring sites must

be taken into account. It is also noted that the Zoning Objective is to protect the residential amenity of existing residential property.

7.2.2 The Rathkeale Local Area Plan has recently been extended to 2022. I note the following from the Chief Executive's Report (on the Local Authority's website)

- there have been no significant planning permissions for residential development since the adoption of the LAP in 2012;
- the population of the town has been declining;
- there is a very high vacancy rate in the town centre, in and around the main street; and
- there is more than sufficient zoned land available for residential development within the town.

It was concluded in the C.E.R. that the objective of providing housing in the area remains to be secured and that sufficient lands remain available to accommodate the housing need arising from population growth envisaged in the area. Consequently, it was decided to extend the LAP for 5 further years as the Plan continues to be consistent with objectives and core strategy of the Limerick County Development Plan and that the objectives of the LAP have not been substantially secured.

7.2.3 The site of the appeal forms part of the rear garden of a premises which fronts Main Street. This property appears to be vacant with a shopfront on the ground floor and two floors of accommodation above. Part of the lands to the north of the site are identified as an Opportunity site in the LAP for consolidation of development, for which planning permission has already been granted for three houses. In addition, a further dwelling house has been permitted immediately to the east of the site. These two sites, together with the site of the proposed development, comprise the rear garden areas of two Main Street properties which stretch northwards to Fairhill. There seems to be little justification for the introduction of a fifth dwelling house on these backland sites, given the level of development already permitted at this location and in light of the plentiful availability of zoned and serviced lands within the town.

7.2.4 The site area is given as 0.016ha, (or 160m²), and it is entirely landlocked, as are three of the four permitted dwellings on the adjacent sites, each of which would be

accessed from the same proposed private lane. The proposed dwelling is shown on the submitted site layout plan as 11.5m x 7.5m, with an annex of c. 8m², which would give a footprint of approx. 94.25m² and a floor area of 180.5m². The Board should note that this differs from the floor area and site area referenced in the P.A. Planning Report, which were 154m² and 0.16ha respectively. This would result in a plot ratio of 1.13 and a site coverage of 59%. It is considered that the site is constrained, not only by its small size, but by the fact that permission has been granted to two separate owners on adjoining sites. It is difficult to see how it would be possible to incorporate a useable private amenity space in the order of 60m² as required by the Development Plan, as the only part of the site that would not be built upon (60m²) includes the proposed parking area. As such, it is considered that the development of a two-storey dwelling would result in overdevelopment of this restricted site.

7.3. Residential amenity

- 7.3.1 The site overlooks the existing dwelling to the south and would also overlook the front of the permitted dwelling to the east, albeit at an oblique angle. It is estimated that distances between the southern and eastern elevations and the opposing facades to the south and east respectively are in the order of approx. 18m and 6m. Thus, it is not possible to achieve 22m between opposing windows. Even if the privacy of the neighbouring houses were to be respected by means of boundary treatment, the boundary would, by necessity, have to be heavily screened by tall trees, which could have an overbearing impact on the small garden of the proposed dwelling. This factor, together with the need to accommodate on-site parking, means that the proposed development is unlikely to be able to provide adequate private amenity space within the site for the enjoyment of the future occupants of the dwelling. Thus, the proposal would be likely to result in serious injury to the residential amenities of the future occupiers of the proposed dwelling.
- 7.3.2 The Area Planner also made reference to the fact that the proposed dwelling would be sited on the rear and side boundaries of the site, with no windows on the rear elevation but with two windows on the first floor of the western side elevation. The appellant has pointed out that these are bathroom windows and has offered to replace these with rooflights if deemed necessary. However, should the Board be minded to grant permission, it is considered that the bathroom windows would be acceptable provided that they are top-hung opening and glazed with frosted glass.

Notwithstanding this, the proposed dwelling, on this restricted site, would have no natural light on two whole elevations (apart from the bedroom windows) and the principal elevation would abut the eastern side boundary (red line), including the shared access lane. It is considered that the amenity and privacy of the future occupants would be severely compromised by the design of the dwelling.

7.5 Appropriate Assessment

- 7.5.1 The site is located approximately 12km from a Natura 2000 site, namely, Askeaton Fen Complex cSAC . Given the distances involved, and as the site is located in an established urban area, on serviced lands, it is considered that no appropriate assessment issues are likely to arise.

8.0 Recommendation

- 8.1. It is recommended that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. Having regard to the restricted site area of this backland site, which is further constrained by the permitted development of four detached dwellings on the adjacent sites to the north and east and by the proximity of the existing residential property to the south, it is considered that the proposed development of a two-storey dwelling would result in overdevelopment of the site, which would seriously injure the residential amenities of these properties by reason of overlooking and overbearing impact, and would result in inadequate useable private amenity space for the future occupiers of the site. The proposed development would, therefore, be contrary to the provisions of the Rathkeale Local Area Plan (2012-2018 as extended) and the Limerick County Development Plan 2010-2016 (as extended) and to the proper planning and sustainable development of the area.

Mary Kennelly
Senior Planning Inspector

19th June 2018