



An
Bord
Pleanála

Inspector's Report ABPP-301366-18

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| Development | Renovation of building to dwelling and construction of two-storey house. |
| Location | The Square, Rathkeale, County Limerick |
| Planning Authority | Limerick City & County Council |
| Planning Authority Reg. Ref. | 18/35 |
| Applicant(s) | Bridget Flynn |
| Type of Application | Outline Permission & Permission |
| Planning Authority Decision | Split Decision |
| Type of Appeal | First & Third Party |
| Appellant(s) | Bridget Flynn Dan O'Brien & Others |
| Observer(s) | None |
| Date of Site Inspection | 11 th July, 2018 |
| Inspector | Kevin Moore |

1.0 Site Location and Description

1.1. The site of the proposed development is located on the south side of The Square in the town centre of Rathkeale in County Limerick. It comprises a rectangular-shaped site with a vacant shop structure at its northern end and outbuildings occupying the remainder of the plot. There is a mix of commercial and residential uses in the immediate vicinity and public parking is provided within the square. There is a lane to the east of the site leading to dwellings sited behind the proposed site.

2.0 Proposed Development

2.1. The proposed development comprises the renovation of the former shop to a dwelling and outline permission for the construction of a two-storey house to the rear on a total site area of 0.03 hectares. The structure to be renovated has a stated floor area of 125 square metres. The overall development would be served by mains sewer and public water supply.

3.0 Planning Authority Decision

3.1. Decision

On 14th March, 2018, Limerick City & County Council decided to grant permission for the proposed renovation of the existing building to a dwelling subject to 21 conditions and to refuse outline permission for the two-storey house due to it being out of character with the existing pattern of development, the substandard level of residential amenity for occupants of the house, and the undesirable precedent that would result. Condition 7 of the decision to grant permission required the omission of the door on the western elevation and all windows on the ground floor western and eastern elevations.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the existing building on the site is in disrepair, that it covers the full width of the site and is surrounded by roads on three sides. The proposed redevelopment of the building was considered to be acceptable but required revision such that the proposed door on the western elevation is omitted and all windows on the ground floor side elevations be omitted. The proposal for a second dwelling was considered to be unacceptable, constructing a dwelling up to the property boundary and resulting in a substandard level of residential amenity for residents of the dwelling. A split decision was recommended, permitting the proposed conversion and refusing outline permission for the new dwelling.

Other Technical Reports

The Rathkeale Area Engineer set out requirements to be met by the proposed development.

The Environment Engineer requested further information relating to asbestos and set out a condition relating to waste management.

The Archaeologist considered there were no archaeological issues arising.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

3.4. Third Party Observations

An objection to the proposal was received from Dan O'Brien and others. The grounds of appeal reflect the principal planning issues raised.

4.0 Planning History

I have no record of any planning application or appeal relating to this site.

5.0 Policy Context

Rathkeale Local Area Plan 2012 -2016

Zoning

The site is zoned 'Town Centre'.

Infill Development – Residential

The Council encourages infill development in the town centre, and the adaptation of existing vacant and under-used buildings for residential use.

Objective H4: Infill Development, Restoration and Town Renewal

It is an objective of the Council to

- a) Promote the appropriate restoration of existing buildings for residential, office, workshop, or retail uses in the town centre that are vacant or underused.
- b) Encourage living in the town centre by the promotion of residential uses over businesses and rehabilitation of vacant properties for residential purposes.
- c) Promote sensitive infill developments on sites in the town centre that are not developed and are not required for access to backlands.
- d) Ensure that in any proposed alterations to the streetscape of the town centre, adequate consideration is given to conservation, restoration and reconstruction, where it would affect the settings of protected structures, or the integrity of the nineteenth century streetscape.
- e) Consider on their merits proposals for residential development of rear plots where they can be adequately accessed, and where they would not affect existing or proposed private amenities, storage or parking requirements. Such proposals should in general be part of larger masterplans involving contiguous plots.
- f) Have regard to the guidance on the Opportunity Areas in Chapter 10 of this plan.

Rathkeale Opportunity Areas

The Square is designated as an 'Opportunity Area' in the Plan and the area is examined for the provision of an integrated urban design scheme.

4.0 The Appeals

4.1. Grounds of First Party Appeal

The appellant appeals Condition 7 of the planning authority's grant of permission and the refusal of the outline permission for the proposed new dwelling. The grounds of the appeal may be summarised as follows:

Condition 7

- The reason given for the condition is 'In the interest of visual amenity'. The windows and door should be allowed as there is no issue of overlooking of adjacent properties, with a blank wall on the other side of the lane to the east and a path and wall to the west.
- Without windows on both elevations on the ground floor, the dwelling will not meet minimum light and glazing requirements.
- The doorway on the eastern elevation will include a recessed porch to provide protection. The lane is a cul-de-sac with low traffic levels.

The Proposed New Dwelling

- A right of way exists over the lane and the applicant is being prevented from developing a long-time derelict unit because she is not the same clan as the appellant.
- To allow permission to develop the front property and to disallow permission to the rear does not make sense practically. The proposed design is in keeping with the existing house further down the lane and it is similar in nature to that granted to the front. It has sufficient amenity and parking and there would be no overlooking.
- If left undeveloped the derelict building will remain.

4.2. Grounds of Third Party Appeal

The appellants own the residential properties accessing the lane to the east and rear of the appeal site. The grounds of the appeal may be summarised as follows:

- There is a concern that a revised layout was not requested by the planning authority prior to granting permission for the renovation of the existing building. The applicant may be misconstrued that permission has been granted to demolish existing sheds where the proposed dwelling and parking area the subject of outline permission were. The construction of associated pedestrian and vehicular access gates is wholly inappropriate.
- While it has been determined that the applicant has a legal right of way, it is inappropriate to provide a car park to the rear of the dwelling due to the insufficient width of the right of way. It is also wholly inappropriate as there is no footpath adjacent to the structure.
- The application should not have been granted until the foul and storm water sewer connections were indicated. No downpipes should be located within the appellants' property.
- The appellants welcome condition 7 of the planning authority's decision and it is understood that previously closed-up windows could never be reopened to overlook their site.

4.3. **The Third Party Response to the First Party Appeal**

The response may be summarised as follows:

Condition 7

- It is the clear understanding that the existing openings on the eastern gable of the structure could never be reopened to overlook their private site.
- The applicant did not seek permission from the appellants to introduce any window and door openings in the gable elevation.
- The window serving the stairs and first floor corridor could be replaced with roof lights.
- The introduction of additional doors or pedestrian gates on the boundary will result in serious safety issues as there is no footpath along the eastern boundary.

- There are fire safety concerns relating to matters pertaining to unprotected openings.

The New Dwelling

- The owner of the site was aware of the conditions attached to the purchase of the property, including the restricted width of the right of way.
- The decision of the Council is welcomed but there is a concern that the permission for the renovation would be misconstrued to allow demolition of existing sheds to the rear, leading to the construction of additional pedestrian and vehicular access gates.

4.4. Planning Authority Response

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

5.0 Assessment

5.1. Introduction

5.1.1 The proposed development comprises two components and it is intended to assess the impact of the proposed renovation and the additional new dwelling to the rear separately.

5.2 Impact of the Proposed Renovation

5.2.1 The proposed renovation of the existing structure would be a welcome development for this property at a prominent location in The Square within the town centre of Rathkeale. It would aid in the rejuvenation of a plot that is falling into disrepair. A development of this nature would be wholly in keeping with Objective H4 of the Rathkeale Local Area Plan relating to restoration of existing buildings within the town centre.

5.2.2 With regard the impact of the proposed development on the appellants' property, I first note that the applicant has a right of way over the land adjoining the site to the east. I further note that the existing structure already has two window openings on the east elevation, albeit that they are at present closed up. The east elevation of the

existing structure faces onto the lane and a blank wall opposite. There is no reason why the renovation of this structure should not accommodate the provision of door or window openings onto this lane. Condition 7 of the planning authority's decision omitted the windows on the east and west elevations at ground floor level for the reason "In the interest of visual amenity". There would be no adverse impact on visual amenity by the provision of a door and windows on the east elevation of the existing building. Furthermore, the proposed openings onto a narrow lane serving a small number of houses along the lane would have no significant safety concerns, given the low volumes of traffic that would utilise this lane and the associated pedestrian movements arising from the existing and proposed developments.

5.2.3 Further to the above, to omit the ground floor gable windows would create a most unsatisfactory structure for habitation, with the elimination of windows serving the kitchen and a very significant loss of natural light to habitable rooms at ground floor level. There is no merit in omitting the ground floor openings as is required by Condition 7 of the planning authority's decision.

5.2.4 Having regard to the above, any decision by the Board to grant permission for the proposed renovation of the existing building should not include the omission of openings as was required by Condition 7 of the planning authority's decision.

5.2.5 With regard to the serviceability of this structure by way of mains water and sewer, I note that the local authority and Irish Water had no objection to the proposal. It is anticipated that the established structure has available connections to such services.

5.3 Impact of the Proposed New Dwelling

5.3.1 Outline planning permission is sought for the development of a two-storey house behind the existing structure that is intended to be renovated. This is a very narrow site that is just over 5.0 metres in width. The total curtilage to the rear of the structure to be renovated, following the demolition of outbuildings, is adequate to meet the needs of the occupants of the renovated structure but is wholly inadequate to accommodate a second dwelling and to meet the needs of the occupants of that dwelling and the renovated structure. The proposed house would occupy a substantial proportion of the site area necessary for the amenity needs of the renovated structure and would occupy the full width of the site. A two-storey

structure at this location would likely have severe impacts on adjoining properties by way of impact on the amenities of such properties and would fail to serve the basic needs of the occupants of the house itself. Such a proposal would constitute gross overdevelopment of the site and could not be seen to be sustainable development in this town centre location. It would undoubtedly set a most undesirable precedent for further development of this nature within the town centre.

5.4 Conclusion

Further to any further development of the plot associated with the existing structure proposed to be renovated, I submit that the potential to remove outbuildings to provide for amenities to serve this new dwelling and access to the property cannot reasonably be restricted. The development of the associated curtilage to improve the site conditions should be welcomed and would produce an improved living environment for the occupants of the converted structure.

With regard to the development of this site, I consider the proposed renovation to be in keeping with Objective H4 of the Rathkeale Local Area Plan. I further note the provisions of the Plan as they relate to 'Opportunity Area 10', namely The Square. The renovation of the existing structure to habitable use and removal of its vacant and declining physical state would be in keeping with a scheme to renew this area. Design improvements could be made to the proposed renovation and I consider the most basic of these could include a more symmetrical arrangement of fenestration on the front elevation of the renovated structure by revisions to the living room window. Such an improvement could be the subject of agreement with the planning authority prior to the commencement of development.

In conclusion, I consider the proposed renovation of the existing structure to be acceptable and that the additional new dwelling would constitute overdevelopment of this site.

6.0 Recommendation

- 6.1. I recommend a split decision, namely (a) the grant of permission for the renovation of the existing structure subject to conditions and (b) the refusal of outline permission for the two-storey house.

7.0 Reasons and Considerations

(a) Grant of Permission for the renovation of existing building

Having regard to the poor physical condition of the existing structure and prominent location of the proposed site in The Square, the need for rejuvenation of this site, and the physical improvements arising from the proposed renovation of the existing structure, it is considered that the proposed development would not adversely impact on the residential amenities of adjoining properties, would be acceptable in terms of visual impact, would not endanger public safety by way of traffic hazard, and would otherwise be in accordance with the provisions of the current Rathkeale Local Area Plan. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

(b) Refusal of Outline Permission for the construction of a two-storey house

It is considered that the proposed development of an additional house on this site would constitute overdevelopment of a restricted site, would be substandard in terms of residential amenity, and would seriously injure the amenity of properties in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Conditions

1. This permission relates to the renovation of the existing building to a dwelling house only.

Reason: In the interest of clarity.

2. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

3. Prior to the commencement of development, details shall be submitted to the planning authority for agreement in writing for revisions to the front elevation of the dwelling providing for improved symmetry between ground and first floor window openings.

Reason: In the interest of visual amenity.

4. Details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity

6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

7. 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.

Kevin Moore
Senior Planning Inspector

2nd August 2018