



An
Bord
Pleanála

Inspector's Report ABP-305198-19

Development	2 two-storey semi-detached dwelling houses to include part installation of access roadway for overall master plan, connection to existing services, and associated site development works.
Location	Former Cattle Mart Site, New Line Road, Rathkeale, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	18/865
Applicant(s)	John & Patrick Quilligan
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	John & Patrick Quilligan
Observer(s)	None
Date of Site Inspection	24 th October 2019

Inspector

Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in Rathkeale off New Line (R518), a road that runs from east to west through the south of the town centre. This site is that of a cleared mart and it is surrounded by a mixture of uses, e.g. a car park, paddocks, a library, a creche, and retail units, and, on Main Street to the north west, shops/offices/eateries, and dwelling houses. Examples of new housing exist to the east on (and off) Bank Lane.
- 1.2. The site is relatively flat, and it has a concrete base reflecting its former use. This site extends over an area of 0.837 hectares and it is presently vacant. It is on the northern side of New Line from which it is also accessed. The site is bound by a wall, which abuts New Line to the south, paddocks to the east, and a car park and the rear gardens/yards to dwelling houses and business premises to the north west.

2.0 Proposed Development

- 2.1. The proposal is for a pair of two-storey, three-bed, semi-detached dwelling houses with a total floorspace of 296.71 sqm. These dwelling houses would be sited on a pair of house plots that would abut the southern boundary of the site at the western end of its interface with New Line itself. They would be orientated on a north/south axis and their principal elevations would be street-fronted onto New Line. Their curtilages would be paved and there would be the opportunity for them to be accessed from the rear off a new on-site road. (*Prima facie* they would also be capable of being accessed directly from New Line).
- 2.2. The principal elevations would feature major and minor gables and adjoining single storey returns would be constructed to the rear under a “shared” double pitched roof.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of clarification of further information, the application was refused for the following reason:

The proposed development by reason of the proposed site layout and access arrangements would be premature pending the development of the proposed link road

between New Road and Main Street, Rathkeale, as identified in Section 10.3 – Opportunity Area 9 – of the Rathkeale Local Area Plan 2010 – 2022. The proposal would. Therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Further information was sought as follows:

- (i) The proposed site layout to be revised to reflect the provisions of a master plan for Opportunity Area No. 9. Thus, the proposed dwelling houses should be street-fronted, thereby negating their proposed bay windows, and designed to have a maximum ridge height of 8.5m.

The site should include that portion of the proposed access road that would be needed to access the proposed dwelling houses and its specification. Measures to prevent unauthorised on-street parking in front of the dwelling houses should also be shown.

- (ii) A 100 mm pressurised water main crosses the site. This main is to be identified and a 10m wayleave maintained with respect to it.

Each of the proposed dwelling houses is to have individual connections to Irish Water's installations.

- (iii) An archaeological assessment of the site is to be undertaken.

Clarification of the information thus received was requested concerning the following:

- (i) Complete plans of the proposed dwelling houses to be submitted.
- (ii) The issue of unauthorised on-street car parking to be addressed.
- (iii) The proposed road to be designed to the specification required for a regional road.

3.2.2. Other Technical Reports

- Irish Water: Further information requested concerning the presence of a pressurised water main in the site. This matter was addressed by the applicant and no subsequent comments were made.

- TII: No observations.
- Mid-West National Road Design Office: No observations.
- Limerick City & County Council:
 - Archaeology: Further information requested concerning the submission of an archaeological assessment. On receipt of same, no comments made.
 - Engineering: Following receipt of clarification of further information, objection raised, as any permission should be conditional on the provision of the full length of the on-site access road and all associated services.

4.0 Planning History

- 13/489: Demolition of a dwelling house and construction of 2 dwelling houses: Refused at appeal (PL13.242654) on the following grounds:
 1. *The proposed development which is located within an area zoned for Town Centre in the Rathkeale Local Area Plan 2012 – 2018 (LAP) would represent a form of un-co-ordinated development that would contravene the LAP where it is the objective for this area to enhance and protect the Town Centre and would compromise the future development and securing of objectives as identified under Opportunity Area 9 – “Centre Block – Large Urban Block bounded by Main Street, Well Lane and New Line Road.” In the absence of an acceptable master plan for the provision of adequate drainage services, the proposed development would be contrary to the proper planning and sustainable development of the area.*
 2. *Having regard to the restricted site configuration and the lack of adequate private amenity space to serve future residents of the proposed dwellings, it is considered that the proposed development would constitute over-development of the site, would set an undesirable precedent for similar development and would be contrary to the proper planning and sustainable development of the area.*
- 17/179: Demolish and remove existing steel portal frame building from the site, including appropriate treatment and disposal of asbestos sheeting by licenced contractor, and all associated site works: Permitted.

- 2018/40: Part V Exemption Certificate granted to shadow the current proposal.

5.0 Policy and Context

5.1. Development Plan

Under the Limerick County Development Plan 2010 – 2016 (CDP), Rathkeale is identified as identified as a Tier 3 town, which is centred on a transport corridor.

Under the Rathkeale Local Area Plan 2012 – 2022 (LAP), the site is shown as zoned town centre, wherein the objective is “To protect and enhance the character of Rathkeale town centre and to provide for and improve retailing, residential, commercial, office, cultural and other uses appropriate to the town centre while guiding the development of an expanded and consolidated town centre area.” It is also shown as lying partially within the town centre ACA along its western extremity and as having a potential pedestrian/cycle route/link through this extremity.

The LAP includes the site within a larger Opportunity Area denoted as No. 9 and referred to as “Centre Block – Large Urban Block bounded by Main Street, Well Lane and New Line Road.”

5.2. Natural Heritage Designations

- Askeaton Fen Complex SAC (site code 002279)
- Ballymorrisheen Marsh pNHA (site code 001425)
- Curraghchase Woods SAC & pNHA (both site code 000174)

5.3. EIA Screening

Under Items 10(b)(i) & (iv) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2019, where more than 500 dwelling units would be constructed and where 10 hectare-urban sites would be developed, the need for a mandatory EIA arises. The proposal is for the development of a 0.837-hectare site to provide 2 new build dwelling units. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall below the relevant

thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The Planning Authority's draft reason for refusal is critiqued on the following grounds:

- The proposed dwelling houses would be sited on individually owned plots in accordance with the Planning Authority's own master plan made available during the application stage.
- Prior to lodgement of the current application, the Planning Authority agreed that the proposed link road would be partially constructed to serve the proposed dwelling houses, on the basis of a design for the whole of this road.
- Precedent for what was agreed is provided by a similar situation that arose in Bruff – a site location plan for the same accompanies the appeal.
- During the application stage, the Planning Authority's position changed to one wherein it requires that the whole of the link road be constructed.
- The applicants do not control the footprint of the link road – it is in multiple ownership and most of those concerned do not want to construct dwelling houses at present.
- The applicants would not have made the current application had they known what the Planning Authority's position would turn out to be.
- The applicants have incurred considerable expense in making this application.
- The site is essentially a large concrete yard and so there would be no impediment to its incremental development as has occurred in the Bruff case cited above.
- The Board's attention is drawn to the applicants' current housing situation and to application 16/688 for a site to the rear of Main Street and Fair Hill in

Rathkeale, where they were successful in obtaining planning permission for only one of a proposed pair of semi-detached dwelling houses.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

6.4. **Further Responses**

None

7.0 **Assessment**

7.1. I have reviewed the proposal in the light of the CDP and LAP, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Land use, accessibility, and timing,
- (ii) Conservation, archaeology, and amenity,
- (iii) Development standards,
- (iii) Water, and
- (iv) Stage 1 Screening for AA.

(i) Land use, accessibility, and timing

7.2. Under the LAP, the site is zoned town centre, under which dwellings are deemed to be “open for consideration” and apartments are “generally permitted”. Under the LAP, too, the site lies within the western portion of Opportunity Area 9, which is known as Centre Block and which is described as being a large urban block bounded by Main Street, Well Lane, and New Line. The accompanying commentary on this Area states that “As part of any redevelopment of this opportunity area a through road for vehicular traffic, from the junction of New Road and Main Street to R518 Ballingarry Road should be provided.”

- 7.3. The LAP presents an indicative layout of Opportunity Area 9, which shows the route of the proposed through road and the current application site to the west as being developed as part of a row of buildings with ground floor commercial uses and apartments above. These buildings would front onto New Line and they would be accompanied to the rear by greenspace. At the appeal stage, the applicants have submitted a Draft Rathkeale Mart Site Concept Masterplan, which was issued by the Planning Authority to them during the processing of their application. While this Masterplan shows the route of the proposed road, it also shows the lands to the west as being laid out as a row of house plots, two of which are the subject of the current application for a pair of two-storey semi-detached dwelling houses. Thus, there appears to have been a migration away from the indicative layout's depiction of commercial units with apartments above to an acceptance of dwelling houses. Such migration does not reflect the town centre zoning's priorities, but it may reflect current local conditions, wherein new build dwelling houses are present to the east on (and off) Bank Lane.
- 7.4. As originally submitted the proposed through road was shown on drawing no. 2018.JQ-002 following an alignment that differs from that depicted in either the above cited indicative layout or the Draft Rathkeale Mart Site Concept Masterplan. Thus, this road is shown as forming a junction with New Line that is suggestive of the main flow of traffic continuing along New Line, whereas the said layout and Masterplan show a junction that would entail a sweeping bend ensuring that the main flow of traffic continues from New Line (east) onto it. The Masterplan further depicts a junction on this sweeping bend with New Line (west). Thus, under this scenario, the through road would be laid out and constructed in conjunction with revisions to the alignment and priorities along New Line.
- 7.5. Under clarification of further information, the applicant submitted an additional drawing no. 2019.JQ-004, which shows the proposed through road in its entirety and which highlights the section that the applicants undertake to construct as part of the current proposal. However, while the sweeping bend of this road is shown, the junction with New Line (west) is omitted. In the absence of this junction, the section of road that would be constructed would form an acute/obtuse angle with New Line and so it would be contrary to good road junction layout, wherein ordinarily a perpendicular layout would be appropriate. Clearly, in this instance the need to

safeguard the intended layout is at cross purposes with any interim layout and so the Planning Authority's position that the proposed through road needs to be provided as a whole is illustrated.

- 7.6. Note 07 attached to the Masterplan specifically excludes direct access from New Line to the housing plots, including the two comprised in the current application site, along its northern side. Notwithstanding this Note, as the layout of the proposal would not explicitly exclude this possibility, I am concerned that the opportunity would exist to provide such direct access.
- 7.7. The applicants state, in the completed application forms, that they are "part owners" of the application site, i.e. the applicants along with others in The Mart Partnership own the application site. At the appeal stage, they state that they are not in a position to construct the entirety of the proposed through road, as it lies in multiple ownerships and those concerned do not want to construct dwelling houses at present.
- 7.8. I note that the application site does not extend to the entirety of the proposed through route and that other ownerships pertain to that portion which lies outside this site. I note, too, that the site itself is not entirely in the applicants' ownership and so I consider that clarification would be needed to establish that all in The Mart Partnership would consent to the construction of the portion of the proposed through road and the accompanying spur to the rear of the applicants' 2 house plots.
- 7.9. In the light of the foregoing discussion, I consider that the proposal would be premature in advance of the construction of the proposed through road, which would form a spine road to the Opportunity Area and thus ensure it can be satisfactorily accessed.
- 7.10. I have considered that applicants grounds of appeal, which pertain to their experience of the planning process and their present housing circumstances. However, I do not consider that such weight can be given to these matters as to overturn the aforementioned critique of the proposal.
- 7.11. I conclude that, while there is no in principle land use objection to the proposal, it would not be capable of being satisfactorily accessed in advance of the completion of the proposed through road in Opportunity Area 9.

(ii) Conservation, archaeology, and amenity

- 7.12. Under the LAP, the western portion of the application site lies within the Rathkeale Architectural Conservation Area (ACA). Section 8.2.3 of this Plan advises that new buildings within this ACA should complement “the original streetscapes, building lines, and open areas” and they should “not seek to dominate the historic core and should respect the historic fabric of the buildings and the morphology of their plots.”
- 7.13. The application site has been cleared of modern buildings that were comprised in the mart that was formerly on it. The western boundaries to this site abut the rear gardens/yards to either dwelling houses or business premises, the majority of which front onto Main Street. The proposed pair of two-storey semi-detached dwelling houses would front onto New Line and so they would not relate directly to these dwelling houses and business premises. Nevertheless, insofar as they would form a template and/or precedent for further development within the Opportunity Area that would relate directly to the same, the need for a design approach that would be consistent with the ACA arises.
- 7.14. The application site lies within the Zone of Archaeological Potential prompted by the presence of the historic town of Rathkeale (RMP L1029-03001). Under further information, the applicant submitted a report on archaeological test trenching at the site, i.e. 4 trenches were dug, 3 within the two-house plots and 1 within the originally depicted route of the proposed through road, adjacent to its junction with New Line. This report concludes that no archaeological features were identified in the trenches thus dug.
- 7.15. Under further information, the applicant also submitted revised plans of the proposed pair of two-storey semi-detached dwelling houses, which show the omission of bay windows and a reduction in the number of arched first floor windows in the front elevation and the reorganisation of the single storey returns so that they would adjoin one another across the common boundary. The stone finish to the front elevations would also be omitted in favour of a rendered finish.
- 7.16. While I consider that the above cited elevational changes are to be welcomed, I remain concerned that the design approach to the two-house plots needs to be consistent with one that would be appropriate to future dwelling houses in the western portion of the application site that would have a direct relationship with the

ACA. Thus, for example, within this town centre context, it maybe appropriate to build terraced rather than semi-detached dwelling houses.

7.17. I conclude that a design approach that is appropriate from a conservation perspective needs to be adopted in relation to the two-house plots in question.

(iii) Development standards

7.18. The proposed pair of two-storey, three-bed, semi-detached dwelling houses would have a floorspace of c. 148 sqm each. They would be served by c. 169 sqm of private open space, which would be too the rear and along the exposed sides of the dwelling houses. This open space is depicted as being paved and enclosed by a wall with gates in it to the rear and a wall to the sides. Thus, parking would be available, and access is explicitly shown as being from the rear off a spur to the proposed through road.

7.19. I consider that the proposed dwelling houses would afford a satisfactory standard of amenity to future occupiers. I am concerned that access should be exclusively from the rear and that the private open space should be enclosed to the front, too, and that it should explicitly include soft as well as hard landscaping.

7.20. I conclude that the proposed dwelling houses would afford a satisfactory standard of amenity and that, subject to a soft and hard landscaping scheme, the accompanying open space would, likewise, afford a satisfactory standard of amenity, along with adequate car parking provision.

(iv) Water

7.21. The proposal would be served by the public mains water supply and the public foul and surface water sewerage system. Irish Water drew attention to the possible presence of a pressurised water main in the site. However, the above cited trenches did not detect such presence.

7.22. Under drawing no. 2018.JQ-002 (revision B), the public water mains and the public foul water sewer in the proposed road network to the rear of the two-house plots are shown as being available for connection to. Thus, the servicing of these dwelling houses is predicated on this network being in place. In the light of the discussion under the first heading of my assessment, this would be unachievable in a satisfactory manner under the current application.

- 7.23. The applicants have not shown any measures that would be undertaken to ensure that surface water can be partly or wholly disposed of on the site itself.
- 7.24. The applicants have stated that they have no knowledge of the site being flooded in the past. Under the OPW's flood maps, this site, which is on the northern side of New Line is shown as being the subject of a low probability risk (AEP 0.1%) of fluvial flooding, whereas the southern side of New Line is shown as being the subject of high, medium, and low probability risk (AEP 10%, 1%, and 0.1%, respectively) of such flooding. Under the OPW's flood plans, Rathkeale is shown as being a community where localised measures were assessed. However, it is unclear whether flood prevention measures have been undertaken that would have a bearing on the level of flood risk pertaining to the application site.
- 7.25. Under the Planning System and Flood Risk Management Guidelines, the site is in Flood Zone B. Dwelling houses are deemed to be highly vulnerable development and so if they are to be sited within this Zone they must satisfy the Justification Test, which is set out in Box 5.1 of these Guidelines. Insofar as the current proposal is for two dwelling houses only, it could be considered to be minor development. However, the two-house plots concerned are not stand alone ones and so any decision on these plots would establish a template/precedent for comparable plots in the LAP's Opportunity Area 9. In these circumstances, I consider that the proposal should be the subject of the said Justification Test. The applicant has not addressed this matter by means of a site-specific flood risk assessment.

(iv) Stage 1 Screening for AA.

- 7.26. The site is not in or near to any Natura 2000 site. This site is a serviced urban one and I am not aware of any source/pathway/receptor route between it and the nearest such sites, e.g. Askeaton Fen Complex SAC and Curraghchase Woods SAC. I thus consider that the proposal would not be likely to have a significant effect on the Conservation Objectives of these or any other Natura 2000 sites.
- 7.27. Having regard to the nature and scale of the proposal and the nature of the receiving environment, no Appropriate Assessment issues arise, and it is not considered that the proposal 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. That permission be refused.

9.0 Reasons and Considerations

1. Having regard to Opportunity Area 9 of the Rathkeale Local Area Plan 2012 - 2022 and the elucidation of the indicative layout of this Area provided by the Draft Rathkeale Mart Site Concept Masterplan, it is considered that the proposal would be premature in advance of the construction of the proposed through road and accompanying cul-de-sac that are needed to provide satisfactory access to and servicing of the proposed pair of dwelling houses. Accordingly, to permit the proposal in these circumstances would be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the site within the Rathkeale Architectural Conservation Area, it is considered that the proposal, which would establish a precedent for other development within Opportunity Area 9 should be the subject of a design approach that demonstrably takes cognisance of this Architectural Conservation Area. In the absence of such an approach, to permit the proposal would risk the introduction of a form of development that would fail to complement the character of the Architectural Conservation Area and so it would be likely to establish an adverse precedent for the same. The proposal would thus be contrary to the proper planning and sustainable development of the area.
3. Under the OPW's flood maps and the Planning System and Flood Risk Management Guidelines, the location of the site is within Zone B and the proposal, which would constitute highly vulnerable development, should therefore be the subject of the Justification Test set out under Box 5.1 of these Guidelines. The applicant has not submitted a site-specific flood risk assessment to enable this Test to be undertaken and so, to permit this proposal in these circumstances, would contravene the said Guidelines and leave open the possibility of future fluvial flooding of the site. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

21st November 2019