



An
Bord
Pleanála

Inspector's Report ABP-307169-20

Development	Retain vehicular entrance forming part of permitted application 15/902 and for permission to complete works.
Location	Main Street, Rathkeale, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/71
Applicant(s)	Patrick Sheridan
Type of Application	Retention permission
Planning Authority Decision	Refusal
Type of Appeal	First Party -v- Decision
Appellant(s)	Patrick Sheridan
Observer(s)	None
Date of Site Inspection	4 th August 2020
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located on the northern side of the Main Street in the town centre of Rathkeale. This site is opposite the NE corner of The Square, which adjoins the southern side of the Main Street. It lies within an area of mixed retail, commercial, and residential uses.
- 1.2. The site is of roughly regular shape and it extends over an area of 0.262 hectares. This site accommodates a detached two-storey building, which is a protected structure. This building is presently undergoing renovation/extension. It also accommodates a drive-in/yard within which there is a caravan. These spaces lie to the western side and rear of the said building and they are bound by a separate two-storey building to the west.

2.0 Proposed Development

- 2.1. The proposal is for the retention of a vehicular entrance on the western side of the applicant's building, which serves a drive-in/yard. This entrance is gated by means of a pair of asymmetrical gates: one of which is a vehicular gate and one of which is a pedestrian gate. The structure of each gate is composed of galvanised mild steel and they are clad in timber styled UPVC sheeting. The former gate is hung from a smooth band cement rendered pier and the latter gate is hung from a galvanised mild steel upright. Each gate is 2.45m high and they have a combined width of 4.5m.
- 2.2. The initial portion of the drive-in to the rear of the public footpath is ramped. The two gates have been designed to open inwards in a manner that clears this ramp. Thus, as each gate is opened it is designed to tilt slightly upwards. A stopper prevents either gate from opening outwards.

3.0 Planning Authority Decision

3.1. Decision

Retention permission was refused for the following reason:

The proposed development would be contrary to the proper planning and development of the area because the traffic turning movements generated by the proposed development

would interfere with the safety and free-flow of traffic, both vehicular and pedestrian on Main Str., Rathkeale. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See decision.

3.2.2. Other Technical Reports

- **LCCC:**
 - Archaeology: No issues.
 - Operations & Maintenance Services: Objects for the following reasons:
Ample on-street parking is available,

Subject entrance is close to Chapel Lane and so scope exists for conflict between vehicles entering and exiting this entrance and this Lane, and

Scope exists for conflict between vehicles entering and exiting the subject entrance and pedestrians.

4.0 Planning History

- 15/902: Demolition of the rear portion of existing dwelling (protected structure) and construction of a new extension together with vehicular entrance/access to side of dwelling and associated site works: Permitted subject to 14 conditions, the third of which states the following:

The proposed vehicular access to the side of house shall be omitted and the boundary wall shall be reinstated, with an inward opening pedestrian gate, if required. The area to the side of dwelling shall not be used for the parking of motor vehicles. Revised drawings shall be submitted to the Planning Authority for agreement in writing prior to the commencement of development.

Reason: In the interest of pedestrian and road traffic safety.

- 19/614: Retain vehicular entrance forming part of permitted application 15/902 and for permission to complete works. Refused at appeal ABP-305357-19 for the following reason:

The development for which retention and completion is sought would not be in accordance with pedestrian and traffic safety by reason of the traffic movements generated by the development and would conflict with pedestrian movement on the adjoining footpath. The development proposed for retention and completion would, therefore, be contrary to the proper planning and sustainable development of the area.

5.0 Policy and Context

5.1. Development Plan

Under the Rathkeale Local Area Plan 2012 – 2018 (LAP) (extended), the site is zoned “town centre” and it is shown as lying within the Rathkeale ACA. The dwelling house on the site is a protected structure (RPS ref. 1554).

5.2. Natural Heritage Designations

None within Rathkeale or its immediate environs.

5.3. EIA Screening

The proposal is not of a development type that is subject to EIA.

6.0 The Appeal

6.1. Grounds of Appeal

- The applicant refers to ABP-305357-19. The inspector accepted the need for a vehicular entrance to the site off Main Street. His only issue was with the vehicular gate, which he understood as opening outwards over the adjoining public footpath, due to a ramp on its inner side. In fact, both this gate and the accompanying pedestrian gate are the subject of fixed stays that prevent them from opening outwards. Instead, they are fitted with a hinge and wheel

operating design, so that when they are being opened, a well allows each of them to swing upwards and open away from the pivot point, thereby enabling them to clear the said ramp. They thus open inwardly.

- The applicant's appeal is accompanied by photographs of the vehicular gate being opened inwardly and a letter from West Limerick Children's Services, which outlines the severe medical condition of his daughter that means she is wheelchair bound. The entrance and accompanying drive-in facilitate her use of the family vehicle and, when required, any attendant ambulance.

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 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) Planning history, access, and public safety, and
- (ii) Screening for Stage 1 Appropriate Assessment.

(i) Planning history, access, and public safety

7.2. The site is the subject of an extant permission granted to application 15/902 for an extension to the protected structure. This permission excluded by condition a proposal to provide a vehicular access to the side of this structure, where previously there had been a pedestrian access. The reason cited for this exclusion was that of road safety.

- 7.3. The site was more recently the subject of an application 19/614 to retain a vehicular access. The Planning Authority refused this application on the grounds that traffic turning movements generate by this access would interfere with the safety and free flow of pedestrians and vehicles on Main Street. This decision was appealed, and the Board refused retention (ABP-305357-20) on the sole grounds that the gates fitted in the entrance would open outwards and thus pose a risk to pedestrians and vehicles.
- 7.4. The inspector who reported on the above cited appeal accepted that the family circumstances of the applicant were such that access to the site was needed to ensure that an ambulance could be in attendance when ever required. These circumstances continue to be applicable. He also set aside the PA's concern over the potential for conflict with traffic using Chapel Lane. He observed that this Lane is exceptionally narrow (I calculated that at its pinch point the clearance available is 1.94m) and so it is likely to be only lightly used by vehicles. His only concern was over what he understood to be the outward opening of the gates over the adjoining public footpath and accompanying carriageway and the risk that this would pose to road users.
- 7.5. The current application seeks to address the issue of how the gates open. Thus, the applicant explains that, notwithstanding the presence of a ramp on their inner side, both the pedestrian and vehicular gates installed in the entrance to the site are designed to open inwardly only. He explains how this works as follows: they are fitted with a hinge and wheel operating design, so that when they are being opened, a well allows each of them to swing upwards and open away from the pivot point, thereby enabling them to clear the said ramp.
- 7.6. During my site visit, I was able to observe both gates being opened and closed in the aforementioned manner and I also observed a stopper that prevents either of them from opening outwards onto the public footpath and adjoining carriageway. I am thus satisfied that these gates open and close entirely within the site and so they pose no risk to the public.
- 7.7. The only outstanding matter would appear to be the need for the public footpath to be dished in a manner that would correspond with the entrance to the site. This can be addressed by means of a condition.

7.8. I conclude that the entrance to the site is the subject of pedestrian and vehicular gates that open inwards exclusively. The Board has, in the light of the applicant's family circumstances, previously accepted the need for a vehicular entrance to the site. Now that the opening mechanism of the said gates is understood, the previous concern over the risk that they might otherwise have posed to public safety can be set aside.

(ii) Screening for Stage 1 Appropriate Assessment.

7.9. The site is neither in nor near to a Natura 2000 site. It is rather a fully serviced site within a town centre and the proposal for it relates to the retention of a gated entrance only.

7.10. Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, 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 in a European site.

8.0 Recommendation

8.1. That permission be granted.

9.0 Reasons and Considerations

Having regard to the Rathkeale Local Area Plan 2012 – 2018, the personal circumstances of the applicant's family, and the customised design of the pair of pedestrian and vehicular gates serving the site entrance, whereby they only open inwardly, the Board considers that the retention of the vehicular entrance would not warrant objection and the said gates would not pose a risk to road users on the adjoining public footpath and accompanying carriageway. Ease of access and egress would be facilitated by the dishing of this footpath and so such work should be conditioned. This entrance and these gates thus accord with the proper planning and sustainable development of the area.

10.0 Conditions

1.	<p>The development shall be retained 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 within the stated time period and the development shall be carried out and completed in accordance with the agreed particulars.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>Within 12 weeks of the date of this Order, the applicant shall submit a scheme for the dishing of the public footpath beside the vehicular entrance to the Planning Authority for its written agreement. This scheme shall include a timetable within which the dishing shall be undertaken.</p> <p>Reason: In order to facilitate ease of access and egress.</p>
3.	<p>The gates to the vehicular entrance shall be retained in-situ, along with the stopper that prevents them from opening outwards. Any replacement gates, which maybe installed in the future, shall, likewise, only open inwardly.</p> <p>Reason: In the interest of public safety.</p>

Hugh D. Morrison
Planning Inspector

11th August 2020