



An
Bord
Pleanála

Inspector's Report

ABP-310619-21

Development	Demolition of existing structures and construction of 3 detached houses.
Location	New Road, Rathkeale, Co. Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	21127
Applicant(s)	Dan Delaney.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Dan Delaney.
Observer(s)	None.
Date of Site Inspection	16 th September 2021.
Inspector	Bríd Maxwell

1.0 Site Location and Description

1.1. This appeal relates to the site of an established residential dwelling in the town of Rathkeale, Co Limerick. The site is located on the north-eastern side of New Road R518 which runs to the northwest of Main Street. The immediate area is predominantly residential in character with St Anne's Primary school also located to the northwest of the site. The site extends to 0.078 hectares and is occupied by a substantial two storey dwelling 213sq.m with a small storage shed to the rear. I note that the site was formerly also occupied by a larger storage shed towards the southwestern side of the site however this has been recently demolished and removed. Residential development adjoins to the east and south. A single storey garage structure adjoins to the north west with the substantial high stone boundary wall to the rear. The site has two vehicular entrances located towards the extremities of the site frontage as well as a central pedestrian gateway. The road to the front of the site is marked by double yellow lines. Directly opposite the site to the west a recent infill development of three houses comprising a pair of two storey semi-detached dwellings and a detached property which incorporate two vehicular entrances to hard surfaced areas to the side and rear of the houses.

2.0 Proposed Development

2.1. The application as set out in public notices involves permission to demolish the existing substandard dwelling and domestic storage shed on site and build 3 no detached houses on same site with separate entrances to each house with new boundary walls to front and connections to all existing services.

3.0 Planning Authority Decision

3.1. Decision

By order dated 28th May 2021 Limerick City and County Council issued notification of the decision to refuse permission for the following reasons:

“ Having regard to the town centre site location it is considered that the proposed development by reason of the proposed site layout and access arrangements would

lead to a suboptimal outcome for the development site in terms of its streetscape presence and the achievement of satisfactory standards of residential and visual amenity. The proposed development would be contrary to the proper planning and sustainable development of the area.

The proposed site layout and the proposal to use the rear garden area for the parking of caravans would result in inadequate usable private amenity space for future occupiers of the site. The development as proposed would seriously injure the amenities, depreciate the value of properties in the vicinity and would be”¹

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planner’s report considers that the proposal for car parking to rear is unacceptable. Revised design to be submitted. Further information requested revision to site layout to eliminate vehicular entrance. Surface water details also to be outlined. Following receipt of further information response the report recommended refusal.

3.2.2. Other Technical Reports

Mid West National Roads Design Office – no observations

Executive Archaeologist – Notes location within prescribed monument LI029-031 the Historic Town of Rathkeale. Given brownfield nature of the site no archaeological issues.

Environment Section. A refurbishment demolition asbestos survey should be submitted as further information. In the event of permission, a waste management plan to be submitted

¹ I note that the second reason for refusal appears to end mid-sentence. The recommendation of the area planner included the additional phrase “and would be contrary to the proper planning and sustainable development of the area”.

3.3. **Prescribed Bodies**

Transport Infrastructure Ireland TII – no observations’.

Irish Water – No objection subject to connection agreement and subject to constraints of Irish Water Capital Investment Programme

3.4. **Third Party Observations**

No submissions

4.0 **Planning History**

00/1694 Permission granted 24/11/2000 for demolition and removal of existing dwelling and construction of two storey dwelling new front boundary wall and ancillary site works. (I note that history file documents have not been provided on the Board file and are not available for viewing on Limerick County council eplan - [Online Planning Details \(limerick.ie\)](http://limerick.ie))

5.0 **Policy Context**

5.1. **Development Plan**

The Limerick County Development Plan 2010-2016 as extended and Rathkeale Local Area Plan 2012-2018 as extended refer.

Limerick County Development Plan 2010-2016 (as extended) Policy HOU P3 and HOU P6 (a) seek to promote high quality living environments in new and existing residential areas in the interest of quality of life and sustainable communities, and which has regard to the pattern and grain of existing development.

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.”

Adjoining land to the east is zoned Town Centre while lands to the northwest are zoned Education and Community.

Chapter 4 housing includes Section 4.6 which relates to Traveller Accommodation. It is noted that one of the unique features of Rathkeale is that it contains a large, well established traveller community. The traveller community in the town fluctuates due to the nomadic lifestyle of the trader-traveller who spend much of the year trading in Britain and Europe. According to the 2006 Census, travellers represent 27% of the total population living in Rathkeale town. However, it is acknowledged that this figure is a conservative count of traveller numbers in the town and particularly over the Christmas period this number is significantly increased when there is a large influx of travellers into the town. It is estimated that the traveller community accounts for approximately 40% of the total population. Due to the nomadic lifestyle of the trader-travellers there has been a long history of unauthorised parking of mobile homes and caravans on the public road and private lands in Rathkeale. The placing of mobile homes and caravans on the public road and on unsuitable private lands is creating a public health hazard due to traffic and pedestrian conflicts, lack of proper sewage and water supply, substandard electrical power line connections, gas cylinders and piping for cooking and heating, parking of cars, waste disposal, fire risk etc. To address this issue the Council will seek to provide a Special Development Area in the Roches Road and Fair Hill areas of the town to facilitate a limited number of temporary private sites for mobile homes/caravans. It is envisaged that a total maximum of 50 mobile homes/caravans will be permitted over the 6-year period of the local area plan. This will be reviewed at the time of the next local area plan review.

5.2. Natural Heritage Designations

There are no designated sites in the immediate vicinity. Three European sites within 15km are:

Askeaton Fen Complex, (002279), circa 4km to the north

Curraghchase Woodlands, (00174), 7km to the North

Lower River Shannon SAC (002165), which is 14km to the northwest

5.3. EIA Screening

5.3.1 An Environmental Impact Assessment Screening report was not submitted with the application. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,
- Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere. (In this paragraph, “business district” means a district within a city or town in which the predominant land use is retail or commercial use.)

5.3.2 It is proposed to construct 3 dwellings. The number of dwellings proposed is well below the threshold of 500 dwelling units noted above. The site has an overall area of 0.078 ha in a business district is therefore well below the applicable threshold of 2ha. The site is located within an established residential area. The introduction of infill residential development will not have an adverse impact in environmental terms on surrounding land uses. It is noted that the site is not designated for the protection of the landscape or of natural or cultural heritage and the proposed development is not likely to have a significant effect on any European Site and there is no hydrological connection present such as would give rise to significant impact on nearby water courses. The proposed development would not give rise to waste, pollution or nuisances that differ from that arising from other housing in the neighbourhood. It would not give rise to a risk of major accidents or risks to human health. The proposed development would use the public water and drainage services

of Irish Water and Limerick County Council, upon which its effects would be marginal.

5.3.3 Having regard to: -

- The nature and scale of the proposed development, which is under the mandatory threshold in respect of Class 10 - Infrastructure Projects of the Planning and Development Regulations 2001 (as amended),
- The location of the site on lands that are zoned existing built-up area under the provisions of the Rathkeale Local Area Plan 2012-2018 as extended, and the results of the strategic environmental assessment of the Rathkeale Local area Plan, undertaken in accordance with the SEA Directive (2001/42/EC),
- The location of the site within the existing built-up urban area, which is served by public infrastructure, and the existing pattern of residential development in the vicinity,
- The location of the site outside of any sensitive location specified in article 109 of the Planning and Development Regulations 2001 (as amended) and the mitigation measures proposed to ensure no connectivity to any sensitive location,
- The guidance set out in the “Environmental Impact Assessment (EIA) Guidance for Consent Authorities regarding Sub-threshold Development”, issued by the Department of the Environment, Heritage and Local Government (2003), and
- The criteria set out in Schedule 7 of the Planning and Development Regulations 2001 (as amended),

I have concluded that, by reason of the nature, scale and location of the subject site, the proposed development would not be likely to have significant effects on the environment and that on preliminary examination an environmental impact assessment report for the proposed development was not necessary in this case (See Preliminary Examination EIAR Screening Form).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 The appeal is submitted by Patterson Design, Architectural and Design Services on behalf of the first party. Grounds of appeal are summarised as follows:

- Decision of Limerick City and County Council is incorrect.
- Second reason for refusal appears to be incomplete and thus entirely lacks clarity of meaning.
- No submissions from neighbouring landowners or public representatives.
- Sole grounds of refusal appear to relate to proposal to provide caravan parking. Applicant has not proposed the installation of temporary dwellings which are in any event governed by a Prohibition order affecting the town of Rathkeale.
- Proposal formulated to maintain the established building line and improves the streetscape.
- Site is fully serviced.
- Proposal improves the town's housing stock.
- Proposal preserves amenity of adjacent and proximate properties.
- Reason no 2 is incomplete and incapable of interpretation.
- Proposal harmonises with the streetscape and precedent access arrangements as demonstrated in photographs included in appeal statement.
- Double yellow lines on the road frontage make on street parking unlawful.
- New Street is a regional road carrying significant volumes of traffic and the carrying capacity should be preserved by minimising on street car parking.
- Site is located close to school, church funeral home and hotel where on occasion overflow parking occurs on the R518. On street parking should be preserved for those purposes.

- Proposals are appropriate and in accordance with the precedents and style and character of the streetscape.

6.2. **Planning Authority Response**

The Planning Authority did not respond to the appeal.

6.3. **Observations**

No submissions.

7.0 **Assessment**

7.1 The key issue arising in this appeal relates to the design and layout and in particular the issue of vehicular access to the site and provision for on-site parking. On the matter of principle of development I note that the application has not provided any detailed justification for demolition of the existing dwelling in terms of a structural report or survey to provide evidence to support a case that the existing dwelling is substandard. However, I note that permission was previously granted for demolition of this dwelling on 24/11/2000 under planning reference 00/1694. Having visited the site and viewed the dwelling I consider that it is of no apparent architectural merit and I accept that densification of the site is appropriate in terms of the town centre and fully serviced site location. I therefore propose to focus on the issue of design and layout. The matter of Appropriate Assessment also needs to be addressed.

7.2 On the issue of design and layout I note that the decision of the local authority was based on the conclusion that the proposal layout and access arrangements would lead to suboptimal outcome for the site in terms of its streetscape presence and achievement of satisfactory standards of residential and visual amenity. The Planning Authority in the request for additional information requested the elimination of vehicular access to the site. The first party within the appeal submission and in response to the request for additional information outlined that vehicular access is

required as the applicant who is a member of the travelling community works abroad and when returning to Ireland requires parking for his caravan. It is noted that the frontage of the site is marked with continuous yellow lines. I note that the proposal provides for a total of 4 vehicular access points over the site frontage of 36.6m. This is clearly excessive in the context of the town centre location of the site and is far in excess of the stated requirement for parking. I would concur entirely that it is detrimental in terms of the streetscape presence and results in a car dominant environment much to the disadvantage of the pedestrian. I consider that vehicular access and on-site parking could be provided however it should be limited and the potential for shared access should be explored in terms of the achievement of an innovative design solution in the interest of visual amenity. I note that the precedent cases in the vicinity of the appeal site incorporate shared access arrangements. I note that in relation to the chosen design solution the adequacy and quality of private open space having regard inter alia to issues of outlook and solar gain should also be addressed in any future application on the site. On the basis of the foregoing, I consider that the application has not achieved a suitable layout and design for this town centre infill site and the decision to refuse should be upheld.

7.3 On the matter of appropriate assessment there are no Natura 2000 sites within the town of Rathkeale. The site is located approximately 4km from the closest designated site, namely, Askeaton Fen Complex cSAC (002279) and approximately 7km from Curraghchase Woods SAC (000174). It is located c.14km to the southwest of the Lower River Shannon SAC (near Adare). 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. It is therefore not considered that the development to have a significant effect individually or in combination with other plans or projects on a European site

8.0 Recommendation

8.1. Refuse permission for the following reasons.

9.0 Reasons and Considerations

- 9.1. Having regard to its design and layout including the provision of four individual vehicular entrances, it is considered that the proposed development would fail to respond to the unique characteristics of the site, would not contribute to a sense of place making and would create a poor quality streetscape at this location and would seriously injure the visual and residential amenities of the area. 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), would injure the visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

Bríd Maxwell
Planning Inspector

26th September 2021