



An
Bord
Pleanála

Inspector's Report ABP-316337-23

Development	Amendments made to the height of the eaves at each side elevation and rear elevation and all associated works.
Location	The Square, Rathkeale, Co. Limerick.
Planning Authority	Limerick City and County Council.
Planning Authority Reg. Ref.	23/98.
Applicant(s)	Bridget Flynn.
Type of Application	Permission.
Planning Authority Decision	Refuse Permission.
Type of Appeal	First Party.
Appellant(s)	Bridget Flynn.
Observer(s)	John O'Brien Senior and Other.
Date of Site Inspection	2 nd September, 2023.
Inspector	Aiden O'Neill.

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
2.3. Decision	3
2.4. Planning Authority Reports	3
3.0 Planning History.....	5
4.0 Policy and Context.....	5
4.1. National Policy	5
4.2. Development Plan.....	6
4.3. Local Area Plan.....	6
4.4. Natural Heritage Designations	7
4.5. EIA Screening	7
5.0 The Appeal	8
5.1. Grounds of Appeal	8
5.2. Planning Authority Response	8
5.3. Observations.....	8
5.4. Further Responses.....	8
6.0 Assessment.....	9
7.0 Recommendation.....	11
8.0 Reasons and Considerations.....	11

1.0 Site Location and Description

- 1.1. The proposed development site is located in The Square, Rathkeale, Co. Limerick. The Square is located to the east of the town centre, and comprises primarily residential properties, arranged around a hard landscaped square, which also includes public car parking. Rathkeale Community Centre is located further east.
- 1.2. The proposed development site comprises a two-storey under construction dwelling. There is an occupied caravan parked to the rear of the dwelling.
- 1.3. The proposed development site is located outside of, but immediately adjacent to, the Rathkeale Architectural Conservation Area (ACA). There are no Protected Structures on the site or in the immediate vicinity. The dwelling to the east of the proposed development site, on the other side of the laneway, is listed on the NIAH (21831034).

2.0 Proposed Development

- 2.1. Permission is sought for the retention of amendments to the height of the eaves at each side elevation and rear elevation and all associated site works on a site of 0.028ha.
- 2.2. It is stated that the overall height of the dwelling to eaves level is 5.520m, and the ridge height is 7.5m.

2.3. Decision

The Planning Authority decided to refuse permission by Order dated 12th April, 2023, for 1no. reason as follows:

The proposed development by reason of its design and overbearing nature would seriously injure the amenities and depreciate the value of properties in this area and would be contrary to the proper planning and sustainable development of the area.

2.4. Planning Authority Reports

2.4.1. Planning Reports

The planner's report dated 11th April, 2023 commented that:

- A construction management plan as required by condition no. 6 attached at ABP Ref. No. ABP-301366-18, PA Ref No. 18/35, is still outstanding.
- The height of the eaves of the dwelling have been increased.
- While it is noted that the roof ridge height has not increased, the increase in the eaves results in a large overhang of soffits onto the roof of the adjacent property immediately west.
- The Planning Authority would have serious concerns about the residential amenity of the adjacent property.
- The Conservation Officer notes that works involved the construction of a significant section of concrete and cement fabric atop traditional masonry constructed of limestone and building lime bedding mortars are inherently incompatible, with potential for directional movement to cause structural failures in the future.

The planner's report is the basis for the Planning Authority's decision to refuse planning permission.

2.4.2. Other Technical Reports

The report of the Architectural Conservation Offices dated 31st March, 2023 states that:

- Permission was granted on appeal for works at this location, but this has been deviated from in a very significant manner.
- As summarised in the planner's report (above), the section of concrete and cement fabric over the existing limestone and building lime bedding mortars is inherently incompatible with potential for differential movements to cause structural failures in the future.
- There is aesthetic damage to the setting and amenity of the Rathkeale ACA.

2.4.3. Prescribed Bodies:

None.

2.4.4. Observations:

1no. observation was received from the owners of the property to the east, stating as follows:

- The previous permission, 18/35, did not indicate that the eaves and ridge of the roof of the existing building were being raised.
- The ridge height and the eaves height have been substantially increased and is clearly visible on the front façade.
- The new eaves have substantially encroached on their lands.
- Conditions attached to the previous permission have not been complied with.

3.0 Planning History

ABP Ref. No. ABP-301366-18, PA Ref No. 18/35: Permission was granted on 3rd September, 2018 for the renovation of existing building to dwelling house (former shop & residence) with all associated site works including the demolition of existing buildings, and outline permission refused for the construction of a two storey house.

There is a current Enforcement Notice, DC-281-22, on the proposed development site in relation to unauthorised works to roof. There was also a warning letter, DC-085-22, in relation to unauthorised development.

Lands to the immediate east of proposed development site, owned by the Third Party, were previously subject to PA Ref. No. 06/438 for the construction of 3no. detached dwelling houses and 3no. terraced dwelling houses, granted on 7th February, 2007, and PA Ref. No. 04/1221 for the dereliction of a derelict shed and the construction of 4no. two-storey detached domestic house, which was refused on 12th March, 2004.

4.0 Policy and Context

4.1. National Policy

4.1.1 National Planning Framework (NPF) 2018

The NPF promotes the densification of urban areas in order to deliver the projected increase in population. There is a presumption in favour of the redevelopment of brownfield land.

4.1.2 Sustainable Residential Development in Urban Areas Guidelines for Planning Authorities 2009

Section 6.2 of the Guidelines state development in small towns and villages must strike a balance in meeting the needs and demands of modern life but in a way that is sensitive and responsive to the past.

Section 6.3 states that the scale of new residential development should be in proportion to the pattern and grain of existing development.

The Guidelines are to be replaced by the Sustainable and Compact Settlements Guidelines which are currently out to consultation.

4.2. Development Plan

4.2.1 Limerick City and County Development Plan 2022-2028.

Rathkeale is a Level 3 town in the settlement hierarchy for Limerick.

Objective CGR O13 states that it is an objective of the Council to monitor and review existing Local Area Plans and prepare new Local Area Plans for the following settlements: Abbeyfeale, Caherconlish, Castleconnell, Kilmallock and Rathkeale to align with the Limerick Development Plan on completion and to consolidate the growth of these towns and focus policy on ensuring these towns become more self-sufficient, in terms of job creation and services.

4.3. Local Area Plan

4.3.1 Rathkeale Local Area Plan (LAP) 2023-2029

The proposed development site is zoned Town Centre in the LAP, the objective of which is to protect, consolidate and facilitate the development of Rathkeale's commercial, retail, educational, leisure, residential, social and community uses and facilities. Lands to the west and east are zoned Existing Residential, the objective of which is to provide for residential development, protect and improve existing residential amenity. The Square, also zoned Town Centre, is also identified as Opportunity Site No. 4 in the LAP, stating as follows:

- Historic built fabric that defines the Square has been depleted with inappropriate modern material losing some of Square's original architectural

integrity. The civic role is somewhat maintained by the fine eighteenth century former Court House functioning as a community centre.

- An improved managed public space with an appropriate hard and soft landscaping, clear delineating of the parking, pedestrian space, seating and cycle parking could animate Upper Main Street, encouraging more pedestrian footfall in this area and restore the Square as a destination in the town centre with more productive uses. Pedestrian and cyclist movement and safety shall be a priority and with careful design there may be flexibility to accommodate public transport. The space has potential for stronger civic function, including community events and a local market.

Objective H O1(c) of the LAP seeks to consolidate existing development and increase existing residential density, through a range of measures, including reductions in vacancy, re-use of existing buildings, infill development schemes, area or site-based regeneration and appropriate increased building heights.

Objective HE O5 seeks to ensure the design of any development in the Architectural Conservation Area, including any changes of use of an existing building, should preserve and/ or enhance the character and appearance of the Architectural Conservation Area as a whole.

4.4. Natural Heritage Designations

The proposed development site is removed from the nearest Designated Sites. The Lower River Shannon SAC (002165) site is approximately 13 km to the north west of the town. The Askeaton Fen Complex (SAC 002279) is 3.5km to the north of the town, while the Curraghchase woodlands (SAC 00174) lie 6.5km to the north-east or Rathkeale.

4.5. EIA Screening

The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

5.0 The Appeal

5.1. Grounds of Appeal

The First Party appeal sets out the following grounds:

- The works that required retention do not affect the overbearing nature or depreciate the value of property in the area.
- It will not be any different to what was granted planning permission.
- The soffit height is 5.2m as per the permitted development. The ridge height is 7.5m as per the permitted development. The reason for the wall plate appears to be built higher is due to the nature of the original wall make up being a random rubble wall. This had to be reduced to a suitable bearing where the wall was solid and sufficient to carry the load from the new roof, this was taken back up in block wall to the required height of 5.2m and the wall plate for the roof was fixed to that.
- This was only done to ensure that the roof had a level and stable surface to fix to.
- Retention permission was not required.
- This is a construction site and works are not complete.

5.2. Planning Authority Response

None on file.

5.3. Observations

1no. valid observation was submitted in the form of a cover letter, with a copy of the submission made to the Planning Authority.

5.4. Further Responses

None on file.

6.0 Assessment

6.1. Having examined all the application and appeal documentation on file and having regard to relevant local and national policy and guidance, I consider that the main issues in this appeal are those raised in the grounds of appeal, and I am satisfied that no other substantive issues arise.

6.2. The main issues, therefore, are as follows:

- Impact on Amenities
- Appropriate Assessment

6.3. Impact on Amenities

6.3.1 I have given due consideration to the appeal prepared by the First Party.

6.3.2 It is understood that the demolition and rebuild works to the side and rear walls of the dwelling (under construction) permitted under ABP Ref. No. ABP-301366-18, PA Ref No. 18/35 were carried out to strengthen their ability to bear the load of the new roof.

6.3.3 The original random rubble walls were part demolished and rebuilt using concrete blocks, but it is stated that the soffit height and the ridge height of the permitted dwelling has been maintained.

6.3.4 The First Party has also queried if permission for the retention of these works was required.

6.3.5 The Planning Authority refused permission on the basis of the extended height of the eaves and the resultant overbearing effect of the large overhanging soffits on the amenities of the adjacent property.

6.3.6 Having visited the site and reviewed the drawings of the permitted dwelling (under construction), I would concur with the Planning Authority that the height of the eaves has increased as a result of the construction works.

6.3.7 Contrary to the First Party's assertion, permission is required to retain these changes, as they are material changes that affect the character of the dwelling under construction.

- 6.3.8 I would also agree with the Planning Authority that, when compared to what was permitted, the soffits do overhang the property to the west.
- 6.3.9 However, I do not consider this to be excessive or to result in a significant negative effect on the amenities of the adjoining property to the west. While there is an overhang, I do not consider it to be overbearing on the property to the west. The works to be retained are in proportion to the pattern and grain of existing development and would not depreciate the value of properties in the area in this respect.
- 6.3.10 The Conservation Officer raises concerns about the aesthetic damage to the setting and amenity of the Rathkeale ACA as a consequence of the works.
- 6.3.11 The proposed development site is outside of, but directly adjoins, the ACA. It is not a Protected Structure, nor is it listed on the NIAH.
- 6.3.12 I note the provisions of Opportunity Site No. 4 of the Rathkeale LAP, which states that the historic built fabric that defines the Square has been depleted, and that some of Square's original architectural integrity has been lost. It would be unreasonable to conclude that the works to be retained, which I do not consider to be significant, would damage the aesthetic of the ACA in this context.
- 6.3.13 The Conservation Officer also raises structural concerns about the propriety of the placing of concrete blocks on top of the existing random rubble wall. The Conservation Officer considers this to be inherently incompatible, with the potential for structural failures in the future. The First Party does not address this point in the appeal. It is also noted that the construction management plan as required by condition no. 6 attached at ABP Ref. No. ABP-301366-18, PA Ref No. 18/35, has not been complied with.
- 6.3.14 In my opinion, the Conservation Officer's concerns about the structural stability of the works have merit. This is compounded by the absence of any response from the First Party that there are no concerns, and also the lack of a construction management plan. This is an unresolved issue that, without resolution, could have the potential to seriously injure the amenities of property in the vicinity.
- 6.3.15 Were the Board minded to grant planning permission, the First Party should be requested to provide a comprehensive construction management plan prepared by a

competent expert that addresses the concerns of the Planning Authority. In the absence of this information, a refusal of permission is recommended.

6.4. Appropriate Assessment

Having regard to the nature and scale of the proposed development and proximity to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

7.0 Recommendation

7.1. I recommend that planning permission be refused based on the reasons and considerations set out below.

8.0 Reasons and Considerations

Based on the information available, and in the absence of a detailed construction management plan, the Board is not satisfied that the proposed development, by reason of nature and form of the works to be retained, would be acceptable in terms of residential amenity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.



Aiden O'Neill
Planning Inspector

11th September, 2023.