



An
Bord
Pleanála

Inspector's Report ABP-319319-24

Development	Retention of off-street parking to the front of house, provision of a tarmac surface, removal of the front boundary wall and pedestrian gate along with ancillary development works.		
Location	293 Rathmullan Park, Drogheda, Co. Louth.		
Planning Authority Ref.	24/01.		
Applicant(s)	Oliver and Fiona Kelly.		
Type of Application	Retention Permission	PA Decision	To refuse permission
Type of Appeal	First Party	Appellant	Oliver and Fiona Kelly
Observer(s)	None		
Date of Site Inspection	11 th May 2024	Inspector	Richard Taylor

Context

1. Site Location/ and Description.

The application site comprises the frontage of a two-storey terraced dwelling finished in render with pitched roof. The front of the site measures approximately 5.6 metres in length and 5.5 metres in width based on the submitted block plan drawing. This area is entirely finished in tarmac hard surfacing. There is no boundary treatment along the front of the site, with a public footpath, tarmac ramp,

vehicle layby area and carriageway beyond. The boundaries between adjacent properties comprise a block wall approximately 1.2 metres in height. The topography of this area slopes from the front elevation of the house towards the public road. To the rear there is a typical garden area.

The appeal site is the middle dwelling within a row of three properties with similar site characteristics and alignment to the public road. To the east there are a further two dwellings which form part of the terrace, however these are staggered back from the front elevations of the appeal site and dwellings immediately adjacent. East of the site the public road sweeps at alignment at a broadly 45° angle, reverting to a straight or linear alignment to the west along the site frontage and beyond. There is an access road close to the site to the west, facilitating access to communal hardstanding parking areas at the rear. The appeal site is located within a larger housing development with similar house types and plot characteristics. To the west there are a further 2 rows of terraced dwellings arranged in blocks of 5 dwellings. Opposite the site to the north and northeast, there are further blocks of terraced dwellings, however those to the northeast are orientated in a west to east alignment. There are several on street parking areas including adjacent to the site, to the west, and to the north opposite.

2. Description of development.

The appeal proposal comprises the following elements:

- creation of a hard standing area for the parking of cars;
- creation of an access to the public road;
- formation of a ramp adjacent to the public footpath;
- removal of the front boundary wall;
- installation of drainage measures.

3. Planning History.

There is no planning history associated with the appeal site.

Reference: 02/510094: Extension of site garden to incorporate a vehicle are entrance and wall. New boundaries to include removal of tree at 177 Rathmullan Park.

UD/23/154: 149 Rathmullan Park unauthorised encourage car parking.
Enforcement action ongoing.

UD/23/160: 150 Rathmullan Park unauthorised encourage car parking.
Enforcement action ongoing.

Both of the above enforcement cases are located opposite the appeal site.

4. National/Regional/Local Planning Policy (see attached)

- The Louth County Development Plan 2021-2027 was adopted by the members of Louth County Council at a Special Council Meeting on the 30th September 2021. The Plan came into effect on the 11th November 2021. It has regard to national and regional policies in respect of residential development, transportation, and related infrastructure.
- Key documents and policies are as follows:
- Chapter 2 – Core Strategy and Settlement Strategy
- 2.6 Housing.
- 2.13 Drogheda.
- HOU 23 To require the layout of residential developments to take account of the Design Manual for Urban Roads and Streets (2019) in the provision of pedestrian and cycling infrastructure and crossing points and the design of estate roads and junctions.
- HOU 25 All new residential and single house developments shall be designed and constructed in accordance with the Development Management Guidelines set out in Chapter 13 of this Plan.
- 3.16.2 Extensions to Dwellings: HOU 34 To encourage sensitively designed extensions to existing dwellings which do not negatively impact on the environment, residential amenities, surrounding properties, or the local streetscape and are climate resilient.
- Chapter 7 – Movement.
- Chapter 8 – Natural Heritage, Green Infrastructure and Biodiversity.
- NBG 3 To protect and conserve Special Areas of Conservation (SACs) and Special Protection Areas (SPAs) designated under the EU Habitats and Birds Directives.
- Chapter 13 – Development Management Guidelines.

- 13.8.35 House Extensions: Any application for the extension to or renovation of a property shall consider the following:... Car Parking – Any loss of on-site car parking shall not result in a requirement for vehicular parking on the public road, particularly in locations where there is no or limited additional on street parking available.
- 13.16 Transport.
- 13.16.6 Car Parking.
- The method of transport people choose to use when travelling to and from a development is a determining factor in how many car parking spaces are required to service it. Whilst this Plan promotes a modal shift away from the private car to more sustainable modes of transport, the car will continue to be an important mode of transport, and therefore there will normally be a requirement to provide car parking as part of a development. Any on-site parking areas provided within developments shall be suitably lined and surfaced.
- 13.16.10 Dimensions of Parking Spaces. The dimensions of parking and loading spaces are set out in Table 13.9: Dimensions of Parking Spaces:
- Parking Space - perpendicular to kerb 5.0m x 2.5m
- Parking Space - adjacent to a wall or other obstruction 5.0m x 2.75m
- Parking Space - parallel to the kerb 6.0m x 2.5m
- 13.16.11 Parking Standards that Reflect the Demand and Location: car parking requirement in the towns and villages in the County should be reflective of the anticipated parking demand. In this regard, the County has been sub-divided into three Areas, with a specific set of standards applicable in each Area. These areas are set out in Table 13.16.12.
- Area 1: Lands Located within town and settlement centres:
- Residential Dwelling: 1 per unit.
- A reduction in the car parking requirement may be acceptable where the Planning Authority is satisfied that:
 - There is sufficient parking available in the vicinity of the development to cater for any shortfall;
 - The nature of the development is such that existing parking spaces in the vicinity could facilitate the dual use of parking spaces, particularly if the

development operated at off-peak times. Supporting documentation will be required demonstrating how the dual use will work;

- The public transport links available would reduce the demand for car parking;
- The central location of the development is such that the customers/residents/users of the development would be likely to walk or cycle; and
- There was no off street car parking provided with the existing/previous use of the property and the redevelopment of the property would not result in a significant increase in the car parking requirement.
- 13.16.17 Entrances and Sightlines: All new entrances and junctions will require clear and unobstructed sight lines to be provided. These sight lines shall be selected using the applicable road design manual TII Design Manual for Roads and Bridges' or if the development is in towns and villages or where the speed limit is within the 60km/h zone the Design Manual for Urban Roads and Streets.
- 13.21 Land Use Zoning Objectives. 13.21.5 A1 – Existing Residential
- 13.21.5 A1 – Existing Residential: Objective: To protect and enhance the amenity and character of existing residential communities.
- Guidance:...to conserve and enhance the quality and character of established residential communities and protect their amenities. Infill developments, extensions, and the refurbishment of existing dwellings will be considered where they are appropriate to the character and pattern of development in the area and do not significantly affect the amenities of surrounding properties.
- Design Manual for Urban Roads and Streets:
- 4.4.4 Forward Visibility
- 4.4.5 Visibility Splays

5. Natural Heritage Designations

- The site is not within or adjacent to any natural heritage designations. The nearest natural heritage designations to the site are the following:
- Special Areas of Conservation (SAC):
- 001459 Clogherhead.
- 001957 Boyne Coast and Estuary.

- 002299 River Boyne and Blackwater.
- Special Protection Areas (SPAs):
- 004080 Boyne Estuary.
- 004232 River Boyne and River Blackwater.

Development, Decision and Grounds of Appeal

6. PA Decision.

The Planning Officer's report dated the 16th February 2024, is the basis of the Planning Authority's decision. Key points are summarised as follows:

- Three submissions were received. All highlighted the loss and lack of on-street car parking, safety, congestion, parking demand and associated difficulty in securing parking spaces.
- Proposal does not meet car parking dimensions requirements set out in the plan.
- Proposal including removal of front wall is not characteristic of the area.
- If granted would set an undesirable precedent for further erosion of front garden areas which would adversely impact visual amenity of the area.
- Placemaking and physical development section advise that the entrance is substandard and would endanger public safety to pedestrians and traffic. Proposal would also result in permanent removal of public car parking spaces. Refusal is recommended. This opinion is endorsed in the report.
- Properties opposite the site have carried out similar works, however these are unauthorised and subject to ongoing enforcement proceedings.
- The site is not located within an area vulnerable to flooding.
- A surface water drain has been installed along the northern boundary comprising an ACO drain. Supporting information confirms but they took away system has been designed to BRE 365 to ensure compliance with policy IU 19 of the plan.
- The development is exempt from development contributions.

7. First Party Appeal.

Grounds:

- Appellant not aware that permission was required for the proposal.
- Works undertaken by a local reputable builder using high quality materials and compliant with EU, Irish and British standards.
- Considerable number of properties have constructed off street parking, no permission was sought or granted. No action has been taken by the planning authority in respect of these works. A precedent has been established on this basis, including the granted permission at number 177 Rathmullan Park and neglecting to take action against those who did not apply.
- Rathmullan Park is a council estate and was constructed in 1970s at which time car ownership was limited. The development plan requires 1 parking space per unit. Paragraph 9.18 car and cycle plan states “reduced parking may be approved including and the following circumstances, public transport links would reduce the demand for car parking”. The town bus service covers Rathmullan Park on a daily basis and a significant number of people avail of this service public transport links in the time service are excellent.
- The proposal would not result in the loss of car parking period two cars can be facilitated (photographic evidence appended), only one car could be accommodated outside the house originally. The parking Bay has a width of 5.7 metres on the depth of 5.7 metres from the footpath which satisfies requirements of a 5 metre depth. There is no impingement on the public path from the driveway.
- The appellant is willing to install a gate at the driveway entrance to address safety concerns of pedestrians and motorists.

8. PA Response

- The planning authority refer to the planner’s report dated 16th February 2024 and make the following additional comments:
- The permission at 177 Rathmullan park related to “extension of side garden to incorporate a vehicular access and wall. New boundaries to include removal of tree.” The characteristics of this site, the layout of the dwelling, location on a corner site with new layby parking in front of, or around its curtilage is not a

similar arrangement to the appeal case. It does not result in the loss of on street spaces. Each case is treated on its merits and the decision is considered appropriate.

- The Council is aware of similar unauthorised encourage car parking within the same estate as the appeal site, including 149 Rathmullan Park and 150 Rathmullan Park. Enforcement action is ongoing in relation to these sites.

Environmental Screening

9. EIA Screening

Having regard to the limited nature and scale of development and the absence of any significant environmental sensitivity in the vicinity of the site, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

10. AA Screening

Having regard to the modest nature and scale of development, location in an urban area, connection to existing services and absence of connectivity to European sites, it is concluded that no Appropriate Assessment issues arise as the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

2.0 Assessment

- 2.1. 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. The main issues, therefore, are as follows:

- (a) Principle of Development.
- (b) Parking details.
- (c) Road safety.
- (d) Impact on character and Precedent.

(e) Other issues.

(a) Principle of Development.

2.2. The site forms part of a larger zoning 'A1 – Existing Residential' in the Plan. The stated objective for such land is: "to protect and enhance amenity and character of existing residential communities." The relevant policy provisions allow for the creation of access and related development subject to detailed considerations. Accordingly, the proposal may be acceptable subject to a detailed design solution that would not prejudice road safety, amenity and character of the area.

(b) Parking details.

2.3. The appellant considers that the area for parking is provided in accordance with the requirements of the plan. The planning report states that the car parking area is inadequate.

2.4. The planning report indicates that this area is 4.8 metres wide by 4.8 metres deep. However, the incut parking area at the front of the site measures approximately 5.6 metres in length and 5.5 metres in width based on the submitted site/block plan drawing. The parking space dimensional requirements are set out in the plan at 13.16.10 within Table 13.9. As there are existing boundary walls adjacent to this area, the appropriate dimension is 5 metres in length and 2.75 metres in width per space. The measured width on the submitted plans is 5.5 metres which is sufficient to accommodate two spaces within a side-by-side arrangement. The parking requirements are 1 space per dwelling and therefore the proposal would exceed this requirement. The length of this area is 5.6 metres which exceeds the minimum requirement of 5 metres. I therefore consider that the proposal meets the dimensional parking requirements set out in the plan.

(c) Road safety.

2.5. The planning report indicates that the proposal would endanger pedestrian and traffic safety, referencing the recommendation to refuse from the Placemaking and Physical Development section of the Council. The appellant states that these concerns can be mitigated through installation of a gate at the driveway entrance.

2.6. The response from the Placemaking and Physical Development section provides little detail in terms of a rationale as to why the proposal is unacceptable. It simply

states that the entrance is substandard, and it would result in the unnecessary permanent removal of public car parking spaces.

- 2.7. Access requirements are set out in chapter 13, including paragraph 13.16.17 of the plan. This references the Design Manual for Urban Roads and Streets, for Streets and Roads with a speed limit of 60km/h or less, which is applicable in this case. The supporting information provided with the application does not include details to demonstrate that adequate forward sight distances and sightline requirements can be provided at this location. The close proximity of adjacent dwellings, associated landscaping and boundary treatments, mean that sightlines from the access would be restricted. Furthermore, the sweeping alignment of the adjacent public road immediately to the east of the site restricts forward sight distances of vehicles approaching the appeal site from the east. This is also compounded by the existing narrow footway, and incutillage turning facilities cannot be provided. Exiting the site in forward gear cannot therefore be facilitated in perpetuity. On the basis of the information provided, I cannot be satisfied that any vehicle entering or exiting the site could do so safely in respect of both pedestrians and vehicles on the carriageway.
- 2.8. Works have also included the construction of a tarmac ramp at the edge of the existing layby parking area to resolve the difference in levels between the finished road/layby level and public footpath immediately adjacent. On street parking in this location is not allocated to any particular property based on site observations, and there is no evidence provided to the contrary. The construction of the ramp structure and the incutillage parking area would have the effect of removing on street parking at this location. The structure would not be an appropriate engineering solution to resolve the levels issues and would also prejudice the safety of pedestrians, including those with visual and mobility impairments, when navigating the footway at this location. The development is unacceptable in relation to these issues.
- 2.9. The appellant has suggested safety issues could be mitigated through installation of a gate at the site entrance. I do not consider that this solution would overcome associated policy issues relating to sightlines, visibility, and the safety of road users and pedestrians as discussed above.

(d) Impact on character and precedent

- 2.10. The Council state that the proposal, including removal of front wall, is not characteristic of the area. If granted, it would set an undesirable precedent for further erosion of front garden areas which would adversely impact visual amenity of the area. The appellant states that a precedent has been established, including a granted permission at 177 Rathmullan Park.
- 2.11. The character of this part of Rathmullan Park has a broadly uniform composition in terms of layout, plot characteristics, architectural form, detailing and boundary treatments. The frontages of existing dwellings to the north/opposite and west of the site also have similar treatment of front garden areas. Car parking is provided within on street parking bays or backland hard surfaced areas, such as that located to the rear of the appeal site. Incurtledge car parking is not characteristic within this area. The proposal as constructed is an incongruous feature within the streetscape from adjacent and approach public viewpoints. I also note that there are several properties with garden areas of similar dimensions to the appeal site to the north and west. Accordingly, I agree with the Council that the proposal adversely impacts on the character of the area and that an unacceptable precedent would result if approved due to similar layout and spatial circumstances at plots close to the appeal site.
- 2.12. The appellant considers a precedent has already been established referring to a granted permission at 177 Rathmullan Park, and others within the area for which permission has not been sought. 177 Rathmullan Park is distinguishable from the appeal site in that it is a corner site, and the access facilitates appropriate visibility sitelines, positioned on a minor road and sufficiently separated from nearby road junctions. The streetscape is also more varied in layout and the associated relationship between built form and the public road. An appropriate transition between the road and the site by a lowered kerb and surface treatment has also been provided. A safe means of access was demonstrated to the satisfaction of the Council, evidenced by the grant of permission. The appeal site does not exhibit similar circumstances to that case, and accordingly I agree with the Council that it does not support the appeal proposal.

2.13. The appellant also refers to other cases where similar development has been undertaken without permission but does not indicate the location of these sites. No weight can be afforded to any similar developments that are unauthorised and not granted planning permission. The Council have confirmed that the incurtilage parking areas that have been constructed opposite the site are unauthorised, and subject to ongoing investigation. These matters, and any other unauthorised developments, are a matter for the Council and outside the remit of this appeal. In the absence of any further examples granted permission, I conclude that there are no similar cases to the appeal that would support granting permission in this instance.

(e) Other issues.

2.14. The appellant refers to the works being undertaken by a reputable builder with materials compliant with legislation. They also indicate that they were unaware planning permission was required for the proposal.

2.15. It is a matter for any landowner to undertake any alterations to their property in accordance with relevant legislative requirements, including planning legislation. These issues do not outweigh the policy objections to the proposal as discussed above.

3.0 Recommendation

3.1. I recommend that permission for the development be REFUSED.

4.0 Reasons & Considerations

Having regard to the Louth County Development Plan 2021- 2027, as varied, the entrance and parking area to the front of the dwelling is substandard and would endanger public safety by way of a hazard to pedestrians and road users. The development would also result in the permanent loss of on street parking. The removal of the front boundary wall and provision of hard standing over the entirety of the front garden would seriously injure the visual amenities and character of this residential area and, if granted, would set an unacceptable precedent for similar development. The development is 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.

Richard Taylor

Planning Inspector

31st May 2024