



An
Bord
Pleanála

Inspector's Report

ABP-319801-24

Development

Retention and completion of dwelling as constructed including all associated site works from that previously approved under planning ref 14/1082. Permission is also sought for amendments to current layout namely reduction of part ground floor area to form open yard area and alteration of single storey roof at rear and side including all associated site works.

Location

Main Street, Rathkeale, County Limerick.

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

2360310

Applicant(s)

Philip O'Donoghue

Type of Application

Retention and Permission.

Planning Authority Decision

Refuse permission

Type of Appeal

First Party

Appellant(s)

Philip O'Donoghue

Observer(s)

No Observer

Date of Site Inspection

23rd September 2024.

Inspector

Oluwatosin Kehinde

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1.0 Site Location and Description

- 1.1. The appeal site is located on the Main Street in Rathkeale town centre and comprises of a two-storey terraced town house building with a part single part two storey rear return. The Main Street comprises of a mix of two and three storey terraced units consisting of retail, office and residential uses.
- 1.2. There are a number of protected structures on the Main Street and the appeal site is within an Architectural Conservation Area. On-street parking is available on the opposite side of the road.

2.0 Proposed Development

- 2.1. Retention permission being sought to retain works to and completion of dwelling as constructed including all associated site works from previously approved permission under Plan Reg 14/1082. Permission is also sought for amendments to current layout namely reduction of part ground floor area to form open yard area and alterations of single storey roof at rear and side including all associated site works.

3.0 Planning Authority Decision

3.1. Decision

Planning permission was refused by the Planning Authority (PA) for by reason of court of Court Order and preserving the Architectural Conservation Area of Rathkeale.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The decision to refuse permission by the PA was informed by two reports from the Planning Officer (PO). The first report dated 29th of June 2023 highlighted the principle of the development, acknowledging the previous grant of permission. The report sought for further information on drawings related to works, consent from neighbour about the party wall and issues related to finishes to the front elevation.

- The initial report by the PO considered that the development as proposed did not exercise a significant effect on the conservation status of any SAC and SPA. Therefore, a Stage 2 Appropriate Assessment was not necessary.
- The second report dated 24th of April 2024 assessed the response by the applicant and deemed that the development as constructed and proposed were unsatisfactory to the Planning Authority. And as such a refusal was recommended by the Planning Officer (PO).

3.2.2. Other Technical Reports

- Conservation Report – Report dated 18th April 2024 recommended no objections subject to conditions.
- Council Archaeologist – Report dated 23rd of May 2023 stated no archaeological issues in regard of the application.

3.2.3. Refusal Reasons

The PA refused development for the following reasons:

- The proposed development has been subject to enforcement proceedings (DC-148-15) that resulted in a Court Order being issued to the applicant, which required the demolition of the unauthorised portion of the structure. This Order has not been complied with to date. The proposed development, if permitted would be contrary to the requirements of the court order and therefore be contrary to the proper planning and sustainable development of the area.
- In the absence of appropriate finishes and materials in keeping with the historic architectural character of an important streetscape within the Rathkeale Architectural Conservation Area it is considered that the development as constructed would contravene Objective HE 05 Architectural Heritage, which 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.' The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

4.0 Planning History

PA Reg. Ref. 14/1082: Permission granted for the demolition of 2 buildings and the construction of a dwelling and all associated site works

PA Reg. Ref. 87/27530: Permission granted for alterations and erections of extension to premises and provision of sign.

Enforcement proceedings under DC-148-15 for removal of unauthorised building works.

5.0 Policy Context

5.1. Development Plan

The Limerick Development Plan 2022-2028 is the statutory plan for the area. Section 6.5.5 relates to Architectural Conservation Areas and it is the objective (EH O53) of the Council to:

- a) Protect the character and special interest of an area, which has been designated as an Architectural Conservation Area (ACA) as set out in Volume 3.
- b) Ensure that all development proposals within an ACA be appropriate to the character of the area having regard to the Character briefs for each area.
- c) Ensure that any new development or alteration of a building within an ACA or immediately adjoining an ACA, is appropriate in terms of the proposed design, including scale, height, mass, density, building lines and materials.
- d) Seek a high quality, sensitive design for any new development(s) that are complementary and/or sympathetic to their context and scale, whilst simultaneously encouraging contemporary design which is in harmony with the area. Direction can also be taken from using traditional forms that are then expressed in a contemporary manner, rather than a replica of a historic building style.

e) Seek the retention of all features that contribute to the character of an ACA, including boundary walls, railings, soft landscaping, traditional paving and street furniture.

f) Seek to safeguard the Georgian heritage of Limerick

The appeal site is zoned town centre under the Rathkeale Local Area Plan (LAP) 2023-2029 with the specific objective *“To protect, consolidate and facilitate the development of Rathkeale’s commercial, retail, educational, leisure, residential, social and community uses and facilities”*

Objective HE O5 of the LAP seek to *“Ensure the design of any development in the Architectural Conservation Area, including any changes of use if an existing building, should preserve and/or enhance the character and appearance of the Architectural Conservation Area as a whole”*

5.2. Natural Heritage Designations

The Ballymorrisheen Marsh (pNHA - code 002165) and Askeaton Fen Complex SAC (code 002279) are located approximately 4km north of the appeal site.

5.3. EIA Screening

- 5.3.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, 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.

6.0 The Appeal

6.1. Grounds of Appeal

- Amended design. The demolition of the ground floor extension to provide an open yard area with a door.
- PA did not request access to the rear of the dwelling to inspect and take photographs.

- The development is built adjacent to the party wall and no third party consent required.
- The modification will not impinge on the neighbour's property.
- The PA should have made decisions based on planning matters and not court orders.
- the external finishes as constructed is better than the dereliction that existed on site.
- The windows, doors, slates used are similar to many properties along the main street.
- It is submitted that the board should have regards to the existing finishes on the main street,

7.0 **Assessment**

7.1. Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows:

- Principle of Development
- Design
- External finishes and materials

7.2. Principle of Development

- 7.2.1. The subject site is located on the main street of Rathkeale and within the settlement boundary. The site is zoned town centre under the Rathkeale Local Area Plan 2023-2029 with the objective – “To protect, consolidate and facilitate the development of Rathkeale’s commercial, retail, educational, leisure, residential, social and community uses and facilities.”
- 7.2.2. The site is subject to an approved residential development under PA Plan Reg 14/1082 and the development is a two-storey town house with a part single part two storey return to the rear. The appeal relates to the retention and competition works to

the dwelling as constructed. Having regards to the zoning of the site and previous planning history, the development is compatible to objective of the area.

7.3. Design

- 7.3.1. The PA grant of permission under 14/1082 included a single storey and a two storey rear extension to the house that extended the full length of the rear boundary. The extension as constructed does not accord with the approved drawings and the PA has taken enforcement proceedings leading to a Court Order to demolish the unauthorised structure.
- 7.3.2. The extension as constructed provides for a reduced depth and it is also part single storey part two storey in nature. This revised design solution provides a more usable open space to the rear and I consider this design to be more appropriate having regards to the restricted nature of the site. The Planning Officer stated in their report dated 24th April 2024 that the drawings submitted did not confirm whether works have occurred on the dividing party walls. However, upon visiting the site, it was observed that the development has been built adjacent to the boundary/party wall.
- 7.3.3. I consider that the works for retention would not impinge on any property and would not seriously injure the amenities of the area.
- 7.3.4. The appeal also includes the applicant's intention to carry out works to the extension as constructed which includes the demolition of the ground floor store area to provide an open yard and to change the roof of the single storey return from a pitched sloping profile to a flat roof. The demolition works will offer another open area to this restricted site and the change to a flat roof profile on the single storey return will not impinge on the neighbouring property. I am of the opinion that the proposed works will not seriously injure the residential amenities of the property immediately west of the site.

7.4. External finishes and materials

- 7.4.1. As stated above, the site is within an Architectural Conservation Area (ACA) and the house is required to provide finishes and materials in accordance with the documentation submitted as part of the PA grant under Plan Reg 14/1082. The house as constructed only represents some elements of the finishes approved by the PA. The applicant has provided vertical sliding sash windows, ornate cut stone

surround to windows and dash plastering to the upper floor front elevation of the house. The applicant has stated in their appeal that the finishes used are similar to many properties along the main street and is now seeking consent to retain and complete the house with these finishes.

- 7.4.2. While the finishes used are an improvement to what was on the site, they don't enhance the character and appearance of the conservation area. I agree with the PA Conservation Officer's report that these finishes are not in keeping with the historic character of the Rathkeale ACA and I consider that the applicant should upgrade the finishes to the front of the house to enhance the character of the ACA. I therefore recommend that the front elevation shall be wet dash plaster, the front doors to be hardwood timber, the use of natural slate for roof and six-over-six timber rise and fall sash windows.

8.0 AA Screening

- 8.1. Having regard to the nature and scale of the proposed development, the receiving environment, the separation distances, and the absence of any pathway to European sites, it can be concluded that the proposed development, alone or in-combination with other plans or projects, would not give rise to any significant effects on any European site. As such, there is no requirement for a Natura Impact Statement in this case.

9.0 Recommendation

I recommend that retention permission be granted, subject to conditions, for the reasons and considerations as set out below.

10.0 Reasons and Considerations

- 10.1. Having regards to the nature of the development and to the planning history relating to the site, it is considered that the development for retention and completion, subject to compliance with the following conditions, would not have an adverse impact on the amenities of adjoining properties, and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	<p>The development shall be retained and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 05th day of April 2024, 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 prior to commencement of development 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>Apart from any departures specifically authorised by this permission, the development shall comply with the conditions of the parent permission Register Reference 14/1082 unless the conditions set out hereunder specify otherwise. This permission shall expire on the same date as the parent permission.</p>

	Reason: In the interest of clarity and to ensure that the overall development is carried out in accordance with the previous permission(s).
3.	<p>The front elevation shall be amended as follows:</p> <ul style="list-style-type: none"> (a) render with wet dash plaster (b) Hardwood timber doors and door sets (c) Six-over-six timber rise and fall sash windows (d) the use of natural slate to the roof and (e) Quion stone detailing at either side of the front. <p>Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.</p> <p>Reason: In the interests of visual and residential amenity.</p>

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.



Oluwatosin Kehinde
Planning Inspector

07th October 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary			
Development Address			
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes			EIA Mandatory EIAR required
No	X		Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No	X		No EIAR or Preliminary Examination required
Yes			Proceed to Q.4

4. Has Schedule 7A information been submitted?		
No		Preliminary Examination required
Yes		Screening Determination required

Inspector: Oluwatosin Kehinde Date: 07th October 2024