



An
Bord
Pleanála

Inspector's Report ABP-321686-25

Development	Construction of a rear vehicular entrance to existing dwelling and all associated site works.
Location	Fairhill, Rathkeale, Limerick, V94D5K7
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2460088
Applicant(s)	Patrick Gammell
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Patrick Gammell
Observer(s)	None
Date of Site Inspection	03 rd March 2025
Inspector	Clare Clancy

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1.0 Site Location and Description

- 1.1. The appeal site comprises of an existing two-storey dormer style detached dwelling with own entrance fronting onto St. Mary's Terrance / L61653 public road. It is located on the corner of St. Mary's Terrace and Deel Court, which is a housing scheme comprising of a mix of 11 single-storey and two-storey dwellings. It is located to the rear (north) of the appeal site with the internal access estate road serving same bounding the appeal site immediately to the east. A high stone wall defines the eastern boundary of the site and there is a footpath on the opposite side of the road serving Deel Court.

2.0 Proposed Development

- 2.1. Permission is sought for a new vehicular entrance from the rear of the existing dwelling onto Deel Court estate road. This also involves the setting back of the existing boundary wall within the application site boundary. An area is identified on the site layout plan that is proposed to be transferred to the local authority.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 13th December 2024, Limerick City and County Council refused planning permission for the following reason:

Having regard to the information as submitted and the adjacent planning application Ref. No. 24/60077, the Planning Authority is not satisfied, having regard to that the proposed development would not endanger public safety by reason of traffic hazard because the traffic movements generated by the proposed development would interfere with the safety and free flow of traffic along the public road in this area. Accordingly, the proposed development would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Two planning reports form the basis of the assessment and recommendation.

3.2.2. First Planning Report

- The first planning report dated 21st March 2024 notes the planning history of the adjoining site to the north located to the rear of the appeal site, P.A. Ref. 23/60077 made by the applicant's brother, for outline planning permission for 2 no. dwellings including the proposal for a separate entrance off Deel Court.
- A letter submitted with the application is noted, which outlines that the applicant and his brother are willing to transfer land to facilitate sight lines, subject to the council undertaking the work.
- The planning authority considered that the proposed access should be located via the new entrance proposed under P.A. Ref. 23/6007 which would coordinate and integrate the proposed development of the landholding.
- Further information (FI) was sought to address the issue by way of amending the application site boundary of the site to the rear, thereby providing a vehicular access via that proposed under P.A. Ref. 23/60077. I note that the FI request did not make reference to achieving sightlines as per the recommendation of the Road Department report dated 28th February 2024.

3.2.3. Second Planning Report

- The second planning report dated 11th December 2024 noted that the application site boundary was not amended as the site was not in the ownership of the applicant, that each property is to remain as currently defined and that the applicant will construct the public footpath at his own expense.
- The proposed entrance is required due to the road junction improvements mandated by the local authority which will reduce the availability of space at the side of the subject site, thereby limiting vehicular access to the rear.
- The planning authority concluded that the redline boundary identifies the site boundary for the purposes of planning permission and does not impact on legal ownership of the site in question.
- The planning authority concluded that the proposed entrance may be acceptable in principle subject to the existing entrance to the front of the dwelling being closed

up. Given the number of existing and proposed dwellings being served by the existing internal estate access road on Deels Court and restricted sightlines, a single shared entrance to serve both sites was considered to be appropriate at this location.

- Notes that a request for a clarification of the matters raised was not possible due to statutory deadline constraints.

3.2.4. Other Technical Reports

Roads Department

First Report 28th February 2024

- Due to the existing high stone wall at the road edge, sightlines are impeded. Recommended FI in relation to demonstrating 30 m sightlines in both directions and to identify site remedial works to achieve same. Reducing hedge height is noted to be not an acceptable measure and all existing boundaries are required to be set back behind sightlines.
- Notes that the existing stone wall may potentially have historical significance and requires review by the Heritage Office.

Second Report 27th November 2024

- In the event that permission is granted for the proposed entrance, the existing site entrance accessing the public road from L6165 is required to be closed.

3.3. **Prescribed Bodies**

- Transport Infrastructure Ireland – No observations.
- Mid West National Road Design Office – No objection raised.

3.4. **Third Party Observations**

None.

4.0 **Planning History**

Appeal Site – Rear Garden (North)

- P.A. Ref. 16/1061 – Permission refused for a vehicular entrance onto Deel Court Estate road.
- ABP Ref. 301625-18 (P.A. Ref. 18/150) – Outline permission refused for 3 no. dwellings. The grounds of refusal related to the gross overdevelopment of the site due to the restricted nature of the site, its location immediately behind an existing dwelling and rear garden of a neighbouring dwelling, inadequate separation distances, inadequate provision of private amenity space to serve the occupants of the units, and the impact on adjoining residential amenities (September 2018).
- P.A. Ref. 22/1200 – Outline permission sought for 2 no. dwellings. Application withdrawn.
- P.A. Ref. 24/60077 – Outline permission refused for 2 no. dwellings and proposed entrances onto Deel Court Estate Road. The grounds for refusal relate to road safety, endangerment of public safety by reason of traffic hazard, and traffic movements generated by the proposed development (13th December 2024).

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

5.1.1. Section 2.3.3 Settlement Hierarchy

- Rathkeale is as Level 3 Town.

5.2. Rathkeale Local Area Plan (LAP) 2023-2029

5.2.1. Zoning – The appeal site is zoned ‘Existing Residential.’

Objective: To provide for residential development, protect and improve existing residential amenity

Purpose: This zoning reflects established housing areas. Existing residential amenity will be protected while allowing appropriate infill development. The quality of the area will be enhanced with associated open space, community uses and where an acceptable standard of amenity can be maintained, a limited range of other uses that support the overall residential function of the area, such as schools, crèches, doctor’s surgeries, playing fields etc.

5.3. Design Manual for Urban Roads and Streets (2019 updated version).

5.3.1. Provides guidance on the role and function of streets within urban areas, where vehicular traffic is most likely to interact with pedestrians and cyclists and where public transport can most effectively and efficiently be planned for and provided. The following Sections are relevant:

- Section 3.2.1 Movement Function
- Section 4.4.4 Forward Visibility

5.4. Natural Heritage Designations

- SAC: 002279 Askeaton Fen Complex SAC – approx. 3.6 km to the north.
- pNHA: 001425 Ballymorrisheen Marsh pNHA – approx. 3.6 km to the north.
- SPA: 004161 Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – approx. 10 km to the west.
- SAC: 002165 Lower River Shannon SAC – approx. 11.4 km to the northeast.
- SAC: 000174 Curraghchase Woods SAC – approx. 7 km to northeast.
- pNHA: 000174 Curraghchase Woods – approx. 7 km to northeast.
- SPA: 004077 River Shannon and River Fergus Estuaries SPA – approx. 9 km to north.
- SAC: 000432 -Barrigone SAC – approx. 9.8 km to the northwest.
- pNHA: 000432 Barrigone – approx. 9.8 km to the northwest.

6.0 EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

7.0 The Appeal

7.1. Grounds of Appeal

The first party grounds of appeal may be summarised as follows:

Road Safety

- The proposed access will not fundamentally alter traffic volumes, will not impact on existing road safety conditions at the junction with the L61653 and is located within the appellants property boundaries.
- The refusal is based on road safety concerns at the junction of the L61653. The road junction and the estate access road to Deel Court are in the ownership and control of the council who have the responsibility for ensuring safety at the junction.
- Section 34(13) of the Planning and Development Act 2000 (as amended) provides that applicants cannot be required to carry out works outside their ownership or control. The refusal decision is based on road safety concerns at a junction it controls which is procedurally and substantively unfair.
- The local authority required a 2 m wide footpath along the eastern boundary of the site. It was the appellants intention to transfer this portion of ground to facilitate the footpath to benefit the estate road safety, despite the road being under the control of the local authority.
- There was a lack of communication on the councils part to engage with the appellant after numerous attempts made by the appellant to have a meeting therefore restricting the appellant's ability to address the issues raised in the further information request and the refusal.

Boundary Adjustments

- The appellant was requested to amend the application site boundaries which were outside of the appellants ownership and unrelated to the proposed development which contradicts Section 34(13) of the Planning and Development Act 2000 (as amended).

- Sightlines – the council specified conflicting distance requirements. The sightline requirements necessitate alterations to public roads and adjacent property which fall outside of the control of the appellants.
- Footpath – the council required the provision of a 2 m wide footpath along the eastern boundary of the site. The road is not in the ownership of the appellant, but was willing to transfer a portion of ground to the council to facilitate a footpath to improve the estate road safety.
- Historic Wall – concerns were raised regarding the eastern boundary wall which might have been of historical significance but were not substantiated.

7.2. Planning Authority Response

None received.

7.3. Observations

None.

8.0 Assessment

Having examined the application details and all other documentation on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is the following:

- Access and Road Safety
- Procedural Matters

8.1. Access and Road Safety

- 8.1.1. The first party appeal seeks to overcome the reason for refusal which relates to the endangerment of public safety by reason of traffic hazard due to the traffic movements generated by the proposed development.

- 8.1.2. The matter of issue is the proposed vehicular access arrangements for the existing dwelling. The existing dwelling is located at the corner of St Mary's Terrace (L61653) and the internal estate access road that serves Deel Court housing scheme. It was stated by the appellant in the response to the FI request, that the need for the new access was due to road junction improvement works mandated by the council resulting in a reduction of the available space to the side of the appellants property, thereby limiting vehicular access to the rear. It is unclear what the plans of the local authority are with regard to road improvement works relating to the adjoining public road L6165 and the impacts arising to the appellants property, as it is not stated in the planning assessment or in the reports of the Roads Department relating to the file details.
- 8.1.3. The proposal entails opening a vehicular access approx. 4.5 m wide to the rear of the existing dwelling, on to the adjoining estate road. The proposed access would be located approx. 23.7 m to the north of the junction with the estate road with St. Mary's Terrace. It is also proposed to transfer part of the appellants property to the council as identified on the site layout plan.
- 8.1.4. I note that it was the planning authorities view that a shared entrance in conjunction with the lands to the rear (north) of the existing dwelling which was the subject of a separate outline planning permission for the provision of 2 no. dwellings, would be appropriate. The appellant was requested to do so by way of FI but did not. I note that outline planning permission was since refused on 13th December 2024 for this permission P.A. Ref. 24/60077. Notwithstanding, I further note that the planning authority considered that the proposed entrance would be acceptable in principle subject to the existing entrance off the adjoining L61653 serving the dwelling located to the front being closed up.
- 8.1.5. It is the appellants view that the reason for refusal relates to the road safety concerns at the junction of Deel Court and St. Mary's Terrace (L61653). However it appears to me that the basis of the reason for refusal relates to the traffic movements generated by the proposed new access which would impact on the safety and free flow of traffic along the public road, which in my view refers to the existing estate road serving Deel Court, as per the observations of the Roads Department.
- 8.1.6. Reference is made in the grounds of appeal to conflicting requirements for sightlines as stated by the area engineers of the council John O'Keeffe and Tony Carmody. I

have clarified from the planning application details that two Roads Department reports dated 28th February 2024 and 27th November 2024 by the area engineer John O'Keeffe are appended to both planning reports. The reference to the Roads Department report by Tony Carmody appears to relate to the adjoining site to the north, P.A. Ref. 24/60077.

- 8.1.7. The planning authorities request for FI sought to direct the appellant to utilise the access proposed under P.A. Ref. 23/60077 to the rear (north) of the existing dwelling. This application was pending decision at time of the planning authorities assessment of the appeal site. I note that the appellant was not in a position to do so as the adjoining lands were not in his ownership.
- 8.1.8. I acknowledge the approach of the planning authority in regard to coordinating a shared means of access between the appeal site and the adjacent site to the north however, I note that the application the subject of this appeal was refused permission prior to a decision being made on the adjacent site relating to application P.A. Ref. 24/60077 which I note was subsequently refused. I note also that this application was referenced in the reason for refusal.
- 8.1.9. Regarding the achievement of sightlines from the proposed entrance, I note that the Roads Department required a minimum 30 m achievable sightlines from a 2.4 m set back point from the road edge. In achieving this, there would be a requirement to setback the eastern boundary of the site which comprises of a high boundary wall, 0.5 m behind the sightlines.
- 8.1.10. The Design Manual for Urban Roads and Streets (DMURS) provides guidance relating to the design of urban roads and streets and I refer to Section 3.2.1 and Table 3.1 which detail the movement function of streets providing categories of Arterial, Link and Local. Figure 3.3 describes 'local streets as streets that provide access within communities and to Arterial and Link Streets'. Section 4.4.4 of DMURS notes that the standard carriageway width of local streets should be between 5-5.5 m. Table 4.1 indicates that the design speed for vehicles in a suburban context and the designated function of a local road, is 10-30 km/hr. Having regard to same, I would consider that the estate access road serving Deel Court is below the 'local' threshold in the hierarchy. The width of the carriageway is approx. 5.9 m and the traffic speed which

this road can accommodate would be less than 20 – 25 km/hr. Table 4.2 indicates for a 30 km/h design speed, 23 m stopping sight distances (SSD) is required.

- 8.1.11. In principle, the adjoining estate road could adequately accommodate the proposed access. In relation to achieving sightlines from the proposed access, this will require the boundary wall of the site, and the adjoining site to the north to be setback.
- 8.1.12. In the response to the FI request, the appellant stated that he was unable to join the adjacent application in terms of site boundaries, and consequently the application site boundaries were not amended. It was also stated that the appellant would provide a footpath.
- 8.1.13. It is unclear from the documentation on file why there is a need to provide a footpath along the eastern boundary of the appeal site, given that there is an existing footpath located across the road to the east of the appeal site serving Deel Court. Notwithstanding, the issue of concern is traffic safety and the achievement of sight lines from the proposed entrance.
- 8.1.14. I note that no proposals are indicated for the boundary wall to the north of the proposed access as part of the overall development, whereby site remedial works would be required to facilitate sightlines to the north upon exiting the new entrance. In the absence of proposals for such site remedial works to address any impediments to achieving sufficient visibility to the north, I consider that the proposed development would result in a traffic hazard and would be an endangerment to public safety. I do not consider that this matter can be addressed by condition to ensure a safe means of vehicular access, due the lands not being in the control of the applicant. In considering whether the proposed access could be relocated to further to the south, given the proximity of the existing dwelling to the eastern boundary of the site, it is unlikely that this could be achievable due to the sites constraints. Having regard to the foregoing, I recommend that permission is refused.

8.2. Other Matters

Landownership

- 8.2.1. In the grounds of appeal the matter of Section 34(13) of the Planning and Development Act 2000 (as amended) is raised in the context of works to be carried out by the appellant in relation to the road safety measures at the junction of Deel Court and St.

Mary's Terrace / L6165. Based on the file details, it is my understanding that the matter of sightlines associated with the proposed access relates to the existing Deel Court estate road and not the junction with the L61653 to the south.

- 8.2.2. I note the provision of Section 34(13) of the Planning and Development Act 2000 (as amended). The appellant has clearly indicated that the lands to the north are not in his ownership and I note that a letter of consent from the adjoining third party landowner consenting to site remedial works to third party lands, was not included in the application details. Arising from a grant of permission, I do not consider that the appellant could carry out site remedial works to lands that are not within his control or without the written consent of the third party landowner. I note also that the matter of consent regarding the proposed development vis a vis the use of the adjoining public estate road for access was not raised by the local authority. Having regard to the foregoing, I am not satisfied that there is compliance with Article 22(2)(g) of the Planning and Development Regulations 2001(as amended) in relation to lands that are outside of the appellant's ownership to allow the Board to grant permission in this case.

Boundary Wall

- 8.2.3. Within the grounds of appeal, the appellant notes that the heritage value of the existing boundary wall which defines the eastern boundary of the appeal site was raised by the Roads Department. I note that this was not raised in the planning authorities assessment. I note that the appeal site and its curtilage are not a Protected Structure, nor is it located within a designated Architectural Conservation Area. In that regard, I am satisfied that there are no issues arising in relation to same in terms of impacts to existing architectural heritage.

Procedural Matters

- 8.2.4. The appellant has noted that matters relating to the assessment of the planning application and correspondence between the appellant and the council prior to the submission of the FI response by the appellant was restricted by the council's failure to engage with the appellant during the course of the planning application process. I acknowledge the issue raised however, such issues are not a matter for the Board to consider. In that regard, I am satisfied that my assessment of the proposed

development has given due consideration to the issues raised in the grounds of appeal and in the planning application.

9.0 AA Screening

- 9.1.1. I have considered the proposed development in light of the requirements of S177U the Planning and Development Act 2000 as amended.
- 9.1.2. The subject site is located in an urban area. It is not located within or immediately adjacent to a European site. The nearest European sites are:
- SAC: 002279 Askeaton Fen Complex SAC – approx. 3.6 km to the north.
 - SAC: 000174 Curraghchase Woods SAC – approx. 7 km to northeast.
 - SPA: 004077 River Shannon and River Fergus Estuaries SPA – approx. 9 km to north.
 - SAC: 000432 -Barrigone SAC – approx. 9.8 km to the northwest.
- 9.1.3. The proposed development comprises the construction of a new vehicular entrance to the rear of an existing dwelling. The appeal site is located in Rathkeale town on lands zoned 'Existing Residential'.
- 9.1.4. No conservation concerns were raised in the planning appeal.
- 9.1.5. Having considered the nature, scale and location of the proposed development I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European Site.

The reason for this conclusion is as follows:

- Small scale nature of the proposed development and the domestic nature of the existing development within the appeal site.
 - The location of the development in a serviced urban area.
 - Location-distance from nearest European Sites and lack of connections.
 - Taking into account the AA Screening determination by the planning authority.
- 9.1.6. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European side either alone or in combination with other plans or projects.

- 9.1.7. Likely significant effects are excluded and therefore appropriate assessment (stage 2) (under Section 177V of the Planning and Development Act 2000 as amended) is not required.

10.0 Recommendation

I recommend that permission is refused for the following reasons and consideration set out below.

11.0 Reasons and Considerations

It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate at a point where sightlines are restricted in a northerly direction. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Clare Clancy

Planning Inspector

25th March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP 321686-25		
Proposed Development Summary	Permission to construct a rear vehicular entrance onto Deel Court Estate Road.		
Development Address	Fairhill, Rathkeale, Co. Limerick		
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	✓
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			
No	✓		Tick if relevant. No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No			

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			

5. Has Schedule 7A information been submitted?		
No		Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ Date: _____