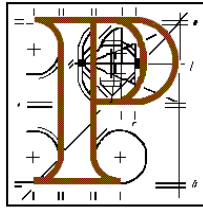


# An Bord Pleanála



## Inspector's Report

**PL17.245725**

### **DEVELOPMENT**

Description: Retention of installation of new on-site sewage treatment system and associated polishing filter.

Address: Avocet, Jarretstown, Dunboyne, County Meath

### **PLANNING APPLICATION**

Planning Authority: Meath County Council

Planning Authority Reg. Ref. No: RA/150873

Applicant: Peter, Tony Sean Maureen and Anita Cafferkey

Application Type: Retention of Permission

Planning Authority Decision: Grant

### **APPEAL**

Appellant: Ted Fleming

Types of Appeal: Third Party –v- Grant

Observers: None

Date of Site Inspection: 2<sup>nd</sup> February 2016

**INSPECTOR:** Paul Caprani

## **1.0 INTRODUCTION**

PL17.245725 relates to a third party appeal against the decision of Meath County Council to issue notification to grant planning permission for the retention of an installation of a new on-site sewage treatment system and associated polishing filter at a site in Jarretstown, Dunboyne, County Meath. The grounds of appeal argue that the wastewater treatment plant is not located within the site boundary, the percolation area has not been constructed on site, the wastewater treatment system serves unauthorised development and poses a threat to the appellant's drinking water.

## **2.0 SITE LOCATION AND DESCRIPTION**

Jarretstown is a small settlement on the borders of Dublin, Meath and Kildare approximately 3 kilometres north of the town of Leixlip and 3 kilometres west of the village of Clonsilla in west Dublin. The appeal site is located on the southern side of a local third class road which links up with the regional R149 approximately 1 kilometre to the east of the site. A local crossroads is located approximately 100 metres to the east of the subject site. The southern side of the local road which serves the site accommodates extensive ribbon development. The northern side of the road is less developed and a former factory is located on the opposite side of the road to the immediate north-west of the subject site.

The site itself occupies an area of 0.448 hectares. The site has a road frontage of approximately 18 metres but widens out to the rear to a width of approximately 45 metres. The overall depth of the site is approximately 125 metres. The existing dwelling is situated on the northern portion of the site set back approximately 22 metres from the front boundary. There is a portacabin and shed located in the rear garden of the site. These structures are associated with a drainage business, which according to the information on file is unauthorised but statute barred. Dwellings are located on either side of the northern portion of the site. There are also a number of outbuildings associated with these dwellings. The rear of the site comprises of an open grassed field which accommodates stables and horses. There are no buildings on lands contiguous to the rear of the site. The wastewater treatment system is located within these lands adjacent to a row of conifer trees. It is a mounded treatment system which is currently fenced off from the rest of the field. A small drainage ditch/stream runs in an east-west direction to the south of the site, approximately 100 metres south of the

percolation area associated with the on-site wastewater treatment system.

### **3.0 THE APPLICATION**

Retention of planning permission is sought for the existing on-site wastewater treatment plant on site. According to the information submitted, the treatment system comprises of the following:

- A two chamber primary holding tank with a baffle area within the tank.
- After primary settlement effluent is to be transferred into a separate three chamber BAF unit. The first chamber is to accommodate a bio medium and aeration tank for secondary-type treatment.
- After secondary treatment the effluent is to be transferred into a secondary clarification unit with sludge removal.
- Effluent is then to be transferred into a discharge chamber where treated effluent is to be discharged to a mounded percolation area via a pump.

The mounded polishing filter is located 4 metres from the secondary treatment system and covers an area of 100 square metres (10m x 10m) according to the drawings submitted. 10 percolation pipes discharge the effluent within the mound polishing filter. The polishing filter itself comprises of 250mm of crushed stone immediately beneath the percolation pipes. The crushed stone is underlain by 900mm of imported soil with a T-value of 21. The mounded polishing area is located approximately 60 metres to the south of the existing dwelling.

### **4.0 PLANNING AUTHORITY'S DECISION**

The planning application was lodged on 20<sup>th</sup> August 2015. A site characterisation form submitted with the application indicated the following:

A trial hole was excavated to a depth of 2 metres. No bedrock was encountered. Water was encountered at a depth of 1.9 metres within the pit however mottling was recorded at a depth of 0.6 metres suggesting that groundwater may rise to this level on site. Based on the assessment carried out it is considered that a septic tank and conventional percolation area were not considered suitable. It is therefore recommended that the existing septic tank and percolation

area be replaced with an advanced treatment system and pressurised soil polishing filter. An Oakstown BAF sewerage treatment plant together with a raised polishing filter be constructed on site discharging to groundwater with a hydraulic loading rate of 50 l/m<sup>2</sup>/d.

A letter of objection from the current appellant was submitted in relation to the application, the contents of which have been read and noted.

A report from the environment section notes that the soil polishing filter in conjunction with the secondary wastewater treatment system will afford a greater level of protection to both groundwater and surface water within the area. Given the challenging nature of soils in this area, the proposal would be beneficial to the environment therefore the environment section has no objection to the retention of the installation of the new on site sewerage treatment system.

The Planner's Report notes that there is a history of unauthorised development on the lands in question. Under reg. ref. DA70199 permission was refused for the retention of two portacabins as offices on site. Based on the details referred to in the third party submission, the commercial development is still ongoing and has been in operation in excess of seven years and is therefore considered to be statute barred.

Under RA/140932 permission was refused for the retention of an installation of a new on-site wastewater treatment system and associated polishing filter. The reason for refusal related to the treatment system serving the unauthorised development on site and that the applicant has not demonstrated that the site can adequately dispose of wastewater. However the plans submitted in the current application solely show the wastewater treatment system serving the dwelling and not the unauthorised portacabins. The submission received from the applicant confirms same. The report received from the Environment Department which raised no objection to the retention of the wastewater treatment system is noted. It is therefore recommended that retention of planning permission be granted for the proposed development. In its decision dated 13<sup>th</sup> October 2015, Meath County Council issued notification to grant planning permission for the proposed development.

Condition no. 2 states that the wastewater treatment system shall solely serve the dwellinghouse on site and shall not be used to serve any other commercial or industrial activities/buildings/structure on site.

Reason: In the interests of the proper planning and development of the area.

## **5.0 PLANNING HISTORY**

1. History file is attached.

Under PL17.244766 Meath County Council's decision to refuse planning permission for the retention of an on-site sewerage treatment was the subject of a first party appeal.

Meath County Council issued notification to refuse planning permission for two reasons.

1. Having regard to the existing unauthorised developments on the application site and the use of the wastewater treatment system to facilitate the continued operation of these, it is considered that the retention of the wastewater treatment system and polishing filter would be inappropriate, would set a poor precedent for other similar developments and would be contrary to the proper planning and sustainable development of the area.
2. Based on the information submitted the Planning Authority is not satisfied that the wastewater treatment system and percolation area are suitable for the ground conditions of the application site. The development would therefore be prejudicial to public health.

The decision was subject to a first party appeal.

The Board in examining the appeal noted that an inadequate fee had been lodged. The fee required in the case of the current application was €4,500 for commercial development where the application included the retention of development. The fee paid with the appeal was €660. No decision was therefore made in respect of the appeal.

## **6.0 GROUNDS OF APPEAL**

An appeal was submitted by Ted Fleming, the grounds of which are outlined below. The appellant states that he has lived on an adjacent site to the appeal site for over 20 years. The grounds of appeal outline the planning history associated with the site and note that the site

accommodates unauthorised development including the provision of two portacabins which are currently used for office use.

The appeal argues that the applicants, in submitting the application, did not state that the already installed system is not connected to the unauthorised development currently on site. It is contended that the applicants yard is described as a fully functioning industrial park with the 'relentless washing of trucks vans and other vehicles'.

With regard to the wastewater treatment plant, it is argued the site plans submitted with the retention application clearly show that the installation is located within the boundaries of the yard (marked red on the map submitted) however it is contended that the wastewater treatment plant and percolation area is located in a different field to the immediate east of the site. It is contended therefore that the application is invalid. By implication the site assessor's report carried out is also suspect. Furthermore it is noted that both site characterisation forms submitted (the current application and appeal PL17.244276) contain completely different information.

The percolation area referred to in the information submitted has not been installed at all and it is contended that a pipe carries discharge to the end of the field.

The applicant, having disregarded the planning decisions of Meath County Council for many years should not be granted retention of planning permission for the wastewater treatment plant. It is also stated that the dwelling house is used as a B&B.

The tank that is installed is of a size that is out of proportion with the needs of the residents. A photograph is attached in this regard. The Planning Authority in this instance turning a "blind eye" to the activities been undertaken on site. To give approval to the wastewater treatment plant without rectifying the existing unauthorised problems relating to the site is perverse.

Finally it is argued that the entire system is too close to the applicant's well (which is located to the front of the dwelling) and this poses a threat to the quality of drinking water. This well is certified as potable.

## **7.0 APPEAL RESPONSES**

The applicant responded as follows:

The appellant is incorrect in stating that the wastewater treatment plant has been developed outside the red line of the site. He is further incorrect in stating that a polishing filter has not been installed at all. The sole purpose of the current application is to serve the pre 1964 dwellinghouse located on site. The older treatment system which is replaced is not suitable for the needs of the current dwelling. The applicant is required to provide a modern wastewater treatment system in accordance with SI no. 223 of 2012.

It is stated that no pipe has been installed to convey discharge to the end of the field as it alleged in the grounds of appeal. The wastewater treatment system and polishing filter have been installed as per the plans and other documents submitted with the application.

The response includes a site layout plan which was superimposed over an aerial photograph and this, it is contended, indicates that the wastewater treatment plant and polishing filter is located within the confines of the site.

It is stated that the only building to connect to the new wastewater treatment system and polishing system is the existing pre-1964 house. The buildings in the adjoining yard will not be connected. If planning permission is not granted the applicant will be forced to reconnect the house to the older and inefficient system which remains within the yard. Condition no. 2 of the Planning Authority's grant of planning permission explicitly prohibits the wastewater treatment plant from serving the unauthorised businesses on site.

Enforcement proceedings associated with the buildings are deemed to be statute barred as stated by Meath County Council. The Board in this case will be dealing exclusively with the development for which retention of permission is sought. It is inappropriate for the appellant to attempt to introduce enforcement issues into the appeal which are not relevant to this application. The appropriate form for addressing this matter is through the enforcement process. The submission makes reference to case law to support the contention that the Board can only deal with the application that currently lies before it. It is contended that the application in this instance is to serve the requirements of the house and

nothing else and this alone is what must be considered by the Board. All other matters raised by the appellant are for another forum.

With regard to the conflicting site assessments, it is stated that the initial site assessment carried out in 2013 yielded P and T tests which failed and for this reason no values were inserted in the relevant sections of the form submitted with the current application. Following the installation of the system in 2014, which included the importation of soil onto the site, revised P and T tests were carried out and the results were included in the revised assessment.

The applicant is incorrect in stating that the house is currently used as a bed and breakfast. The appellant refers to an application for a change of use from a garage to a granny flat which was never responded to following a request for additional information. The garage was later incorporated into the house as exempted development.

With regard to proximity of the well, the Board is asked to note that the location of the polishing filter is further away from that indicated by the appellant in the maps submitted with the grounds of appeal. It is also stated that a public water supply is available at this location and it is not known if the applicant uses the well for his water supply.

## **8.0 PLANNING AUTHORITY'S RESPONSE TO THE GROUNDS OF APPEAL**

Meath County Council are satisfied that all matters outlined in the grounds of appeal were considered during the assessment of the planning application. The development is deemed to be consistent with the policies and provisions contained in the Meath County Development Plan. With regard to the issue of unauthorised development, it is reiterated that the treatment system would only serve the dwellinghouse and not the business premises. Any reference to the same and the characterisation form is simply an error. Reference is made to the Environmental Section Report which raised no objection to the proposed development. With regard to the location of the wastewater treatment system and polishing filters it is the Planning Authority's opinion that the location corresponds with the drawings submitted. It is considered that the soil polishing filter in conjunction with the secondary wastewater treatment system will afford a greater level of protection to both groundwater and surface water in the area.



## 9.0 FURTHER SUBMISSION

A further submission was received on foot of a section 131 notice from the appellant.

It is stated that the photographic evidence submitted is welcome however concerns are reiterated with regard to the unauthorised development on site and the enforcement proceedings relating to same. Concerns are also expressed that unauthorised structures and uses on site will be served by the wastewater treatment system. Concerns are also expressed as to what will happen to the old septic tank.

The conflicting site assessments remain contradictory and this issue needs to be resolved. The appellant remains opposed to the current sewage treatment system being given approval for the reasons set out above.

## 10.0 DEVELOPMENT PLAN PROVISION

The site is governed by the policies and provisions contained in the Meath County Development Plan 2013-2019. The following policies are relevant.

**RD POL 46** seeks to ensure that new development is guided towards sites where wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities. Sites prone to extremely high water tables and flooding or where groundwater is particularly vulnerable and contamination should be avoided.

Policy **RD POL 47** seeks to ensure that the site area is large enough to adequately accommodate an on-site wastewater treatment plant and percolation area.

Policy **RD POL 48** seeks to ensure that all septic tanks/proprietary wastewater treatment plants and polishing filter/percolation areas satisfy the criteria set out in the EPA Code of Practice Wastewater Treatment and Disposal Systems serving Single Houses (PE less than 10) are any other updated Code of Practice in order to safeguard individual and group water schemes.

**RD POL 49** seeks to require a site characterisation report to be furnished by a suitably qualified competent person. Notwithstanding this Meath County Council may require additional tests to be carried out under supervision.

**RD POL 50** to ensure that a maintenance agreement or other satisfactory management arrangements are entered into by the applicant to inspect and service the system as required. A copy of this must be submitted to Meath County Council.

## **11.0 PLANNING ASSESSMENT**

I have read the entire contents of the file, visited the site in question and its surroundings and have particular regard to the issues raised in the grounds of appeal, I consider the critical issues in determining the application and appeal before the Board are as follows:

- Location of the wastewater treatment plant in the context of the site boundary.
- The issue of unauthorised development.
- The suitability of the site to accommodate an on-site wastewater treatment system.

### **11.1 The Location of the Wastewater Treatment Plant in the context of the Site Boundary**

A major issue raised in the grounds of appeal suggested that the wastewater treatment plant and percolation area as indicated on the drawings submitted with the planning application was incorrect. It was contended that the actual wastewater treatment plant and percolation area were located outside the site boundary and in a field adjacent to the immediate east of the subject site. Having inspected the site and having particular regard to the applicant's response to the grounds of appeal I am satisfied that the wastewater treatment plant and percolation area were correctly identified on the drawings submitted. The drawings represent a true and accurate representation of the location of the wastewater treatment plant within the confines of the site. The applicant's response to the grounds of appeal correctly in my opinion identifies the location of the wastewater treatment plant by superimposing the drawings submitted over an aerial photograph of the

site. This in my view addresses any doubt with regard to the location of the wastewater treatment plant and percolation area on the ground. It also appears from the further submission by the appellant received by the Board on 12<sup>th</sup> January 2016 that the accuracy of the drawings submitted were accepted.

### **11.1 The Issue of Unauthorised Development**

Many of the issues raised in the grounds of appeal relate to the planning history associated with the site and issues with regard to unauthorised development and enforcement. It is clear that the current application before the Board specifically relates to the retention of an installed wastewater treatment plant and percolation area specifically to serve the domestic dwelling on site. While the appellant has raised many issues in relation to unauthorised development, issues with regard to unauthorised development and enforcement proceedings are a matter for the Planning Authority and not An Bord Pleanála. An Bord Pleanála concerns itself with issues raised in appeals pertaining to current applications for adjudication. It is not the competent authority in respect of unauthorised development and enforcement proceedings. On foot of this the Board should restrict its deliberations to matters concerning the current application and appeal before it. It is clear that the current application relates to a proprietary wastewater treatment system and percolation area specifically to serve a domestic dwelling.

It is clear from the Planning Authority's notification to grant planning permission, that there is a stipulation requiring the wastewater treatment plant to serve the domestic dwelling only. The appellant argues that the pipes feeding the proprietary wastewater treatment system serve both the unauthorised portacabins on site and the domestic dwellinghouse. I cannot verify whether or not this is the case having regard to the fact that all piping is laid underground. However according to the information contained on file, it appears that it is the applicant's intention that the installed wastewater treatment plant would only serve the domestic dwelling, having regard to the previous decision to refuse planning permission under RA/140932 which sought to serve the dwelling and the unauthorised business. It is further apparent from the Planning Authority's decision, that the applicant is required to ensure that the wastewater treatment plant will only serve the domestic dwelling and not the unauthorised premises on site. If the Board are minded to grant planning permission in this instance, I would recommend that such a condition be likewise attached. The applicant would be required under

law to comply with any stipulated conditions attached regardless of any misgivings the appellant may have in respect of same.

### **10.3 Suitability of the Site to Accommodate an Onsite Wastewater Treatment Plant**

According to the information contained on file it appears that the proprietary wastewater treatment system installed has a high specification incorporating modular primary and secondary treatment processes. The treatment processes exceed those associated with a conventional septic tank and percolation area. Details submitted in relation to the proprietary wastewater treatment system indicate a 97.5% reduction in BOD and a 96.7% reduction in suspended solids prior to discharge to the polishing filter. BOD and suspended solids concentrations in the final effluent are in the region of 8mg/l and 12mg/l respectively. This is well in excess of the minimum performance standards set out in table 5.1 of the EPA code of practice.

It also appears from the site characterisation form that the inherent characteristics of the site are not conducive to efficient infiltration and attenuation of effluent. For this reason a polishing filter has been constructed on site in order to dispose of the effluent. The mounded polishing filter includes the incorporation of 250 millimetres of crushed stone immediately below the invert levels of the pipes below which 900 millimetres of imported soil has been used within the polishing filter. As the wastewater treatment plant has already been installed, I cannot verify the nature of construction relating to the polishing filter. However photographs submitted with the grounds of appeal suggests that both imported soil and crushed stone were utilised in the construction of the polishing filter. The photographs submitted with the grounds of appeal also indicate that the soil in question was reddish brown which indicates a well aerated soil consistent with good percolation characteristics. A separate report submitted with the applicant's response to the grounds of appeal, details the construction method in installing the polishing filter. The report is accompanied by photographs which indicate that the polishing filter was installed together with percolation pipes in accordance with the best practice.

Having inspected the site I felt no evidence of ponding, odour or other issues associated with a non-working/malfunctioning proprietary wastewater treatment system. Based on the evidence therefore I can only conclude that the proprietary wastewater treatment system and soil

polishing filter was installed appropriately in accordance with best practice.

Concern was also expressed in the grounds of appeal that there was inconsistent information contained in the site characterisation reports submitted with both applications. The Board will note that a site characterisation report was submitted with PL17.244276. There appears to be no inconsistencies between both these reports in fact the report associated with the current application appears to be a photocopy of the original report submitted with PL17.244726 (both reports are dated 13<sup>th</sup> April 2013). The applicant in his response to the grounds of appeal states that the initial site assessment carried out in 2013 incorporated P and T tests which failed and therefore no values were inserted in the relevant sections of the form. As the installation of the system in 2014 included importation of soil into the site it seems reasonable in my opinion that P and T tests were not detailed in the site characterisation form.

Finally in relation to this matter I would refer the Board to section 6 of the site characterisation form (treatment system details) in respect to the discharge route reference is made to a hydraulic loading rate of 50 litres per square metres per day. I consider that such a loading rate would be excessive even in the case where T values of 3 to 20 were inherent in the polishing filter. Having regard to the fact that the wastewater treatment system is to cater for a PE of approximately 7 (I have encountered no evidence of my site inspection that the dwelling was used for B&B purposes), the hydraulic loading rate can be expected to be significantly less than this in the order of 10-15 litres per square metres per day. It would appear from the information contained on file that the polishing filter has sufficient percolation and attenuation characteristics to cater for such a hydraulic load.

With regard to potential contamination of the appellant's well, I am satisfied that the proprietary wastewater treatment system and polishing filter will attenuate effluent to a sufficiently high standard before discharging to groundwater. I further note that the well in question is circa 100 metres from the polishing filter. More importantly it appears that the well is located upstream from the prevailing groundwater direction flow having regard to the presence of a surface water stream to the south.

Overall I am satisfied therefore that the proprietary wastewater treatment system and percolation area have been adequately and

appropriately installed to ensure that effluent discharge from the dwellinghouse will be appropriately treated and attenuated so as not to give rise to environmental or public health issues.

## **12.0 Appropriate Assessment**

The nearest designated European site is the Rye Valley/Cartron SAC (Site Code 001398) which is located at its nearest point approximately 2.5 kilometres to the south-west of the subject site. I have argued above that any wastewater discharge from the domestic dwellinghouse will be appropriately attenuated and treated prior to percolating to groundwater. On foot of this conclusion and having regard to the nature and scale of the proposed development and the nature of the receiving environment together with the proximity to the nearest European site, no appropriate assessment issues arise and it is not considered that the proposed development will be likely to have a significant effect individually or in combination with other plans and projects on a European site.

## **13.0 CONCLUSIONS AND RECOMMENDATIONS**

Arising from my assessment above I consider that An Bord Pleanála should uphold the decision of the Planning Authority and grant retention of planning permission for the proprietary wastewater treatment plant and polishing filter to serve the domestic dwelling.

### **DECISION**

Grant Planning Permission Based on the Reasons and Considerations set out below.

### **REASONS AND CONSIDERATIONS**

Having regard to the nature of the proprietary wastewater treatment system installed together with the soil polishing filter constructed on site it is considered that subject to conditions set out below the retention of the works in question would not be prejudicial to public health and would otherwise be in accordance with the proper planning and sustainable development of the area.

## CONDITIONS

1. The development shall be retained in accordance with the plans and particulars lodged with the application 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. The development shall be retained in accordance with the plans and particulars lodged with the Planning Authority on 20<sup>th</sup> August 2015 except where conditions hereunder specify otherwise.

**Reason:** In the interest of clarity.

2. The wastewater treatment system shall solely serve the dwelling on site and shall not serve any of the commercial or industrial activity including any of the buildings/structures located to the rear of the dwelling within the confines of the site.

**Reason:** In the interest of public health.

3. A maintenance contract for the treatment system shall be entered into for a minimum period of five years. Signed and dated copies of the contract should be submitted to and agreed in writing with the Planning Authority within four weeks of the date of this order.

**Reason:** In the interest of public health.

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**Paul Caprani,  
Senior Planning Inspector.**

**8th February, 2016.**  
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