



An
Bord
Pleanála

Inspector's Report ABP-300195-17

Development	Dwelling and waste water treatment system
Location	Roches Road, Rathkeale, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	17/457
Applicant(s)	James Flynn
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	James Flynn
Observer(s)	None
Date of Site Inspection	22 nd February, 2018
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located on the west side of Roches Road north of the town centre of Rathkeale in County Limerick. There is an existing two-storey house and a number of caravans parked within the curtilage. The property has a deep back garden and there is a shed centrally placed behind the house. The site is bounded by block walls. There are detached houses to the north and south of the site and terraced housing on the opposite side of the road.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a detached two-storey, three bedroom house to the rear of an existing dwelling and the installation of a waste water treatment system between the two houses to serve these dwellings. The new house would have a stated floor area of 224.37 square metres and it would be located on a 0.234 hectare site. It would be served by a mains water supply.
- 2.2. Details submitted with the application included a partially completed site characterisation form and brochures on the waste water treatment plant.

3.0 Planning Authority Decision

3.1. Decision

On 18th October, 2017, Limerick City & County Council decided to refuse permission for the proposed development for one reason relating to the proposal being prejudicial to public health, representing overdevelopment, and setting an unwelcome precedent.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted planning history for the site and in the vicinity. The design of the house was considered acceptable. It was noted that an indicative plan, indicating an additional dwelling could be constructed between the existing and proposed house and access for further development on land to the south, had been provided. The

proposal for the waste water treatment plant to serve two houses was considered unacceptable and it was submitted that each house should be serviced by a separate system and be located on a minimum site area of 0.2 hectares. A request for further information was recommended seeking revised proposals to meet waste water treatment requirements and a completed site characterisation form.

3.2.2. Other Technical Reports

The Environment Engineer sought a completed site characterisation form.

3.3. Prescribed Bodies

Irish Water had no objection to the proposal.

- 3.4 A request for further information was sought on 11th July 2017 and a response was received by the planning authority on 25th September 2107. Details submitted included a revised site layout plan providing for two sand polishing filter percolation areas and a revised site characterisation form.

Following receipt of this information, the reports to the planning authority were as follows:

The Environment Engineer noted non-compliance with EPA guidance, the lack of a site boundary divide between the proposed polishing filters, and that the polishing filters are proposed in a green area that is not within the confines of a site boundary. It was concluded that the proposed development is not suitable.

The Planner noted that the proposed site layout does not meet with the EPA Code of Practice relating to waste water treatment systems and recommended that permission be refused.

4.0 Planning History

The site's planning history includes the following:

P.A. Ref. 07/3256

Permission was refused for two semi-detached two-storey houses.

5.0 Policy Context

5.1. Rathkeale Local Area Plan 2012-2018

Zoning

The site is zoned 'Existing Residential'.

Infill Development – Residential

Objectives include:

Objective H4: Infill Development, Restoration and Town Renewal

It is an objective of the Council to ...

e) Consider on their merits proposals for residential development of rear plots where they can be adequately accessed, and where they would not affect existing or proposed private amenities, storage or parking requirements. Such proposals should in general be part of larger masterplans involving contiguous plots ...

Waste Water

Objectives include:

IN 2: Sewerage Facilities

It is the objective of the Council to:

(a) Ensure adequate and appropriate waste water infrastructure is provided for prior to further development to avoid any deterioration in the receiving waters. In this regard account shall also be taken of existing outstanding permissions in assessing impact.

(b) Ensure that development proposals provide adequate waste water infrastructure to facilitate the proposed development. This includes the separation of foul and surface water through the provision of separate sewerage networks.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- The planning authority are wrongly comparing the proposal to a housing estate. The green area is not a proposed public space. The provision of a second house on a large plot in a built up area does not require such public spaces. It is proposed to simply fence off the proposed parking spaces. Both houses on the site will have adequate private amenity space.
- The applicant is the son of a Travelling family in need of a dwelling so that he does not have to reside in a caravan.
- In respect of the extension of the public sewer in the Roches Road area, the sewer traversed the rear gardens of the Roches Road terraces and, as a result, there is poor access to services along the road. Where the sewer does occur on the road, it has such a high invert that it cannot be extended to the site. This is not acceptable where there are ample zoned lands.
- The proposal will provide for the replacement of a substandard septic tank and the installation of a state of the art treatment system.
- Once the sewer is extended the treatment systems will be decommissioned and the properties will connect to the mains.
- The applicant's access road is merely a private driveway and the matter of pipes beneath and boundary distances do not apply in this scenario.
- The applicant and landowner could be locked into a planning condition requiring a section 47 agreement, safeguarding the family ownership of the proposed dwelling and that a maintenance agreement be set up.

6.2. Planning Authority Response

I have no record of any response to the appeal from the planning authority.

7.0 Assessment

7.1. Introduction

7.1.1 I consider that the principal planning issues relating to the proposed development are overdevelopment of the site and the proposals for the disposal of effluent.

7.2 The Question of Overdevelopment

7.2.1 The site of the proposed development is on lands zoned 'Existing Residential' in the current Rathkeale Local Area Plan. The Plan states that the purpose of this zoning is to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas. The latter is particularly important when considering the likely impact of the proposed development.

7.2.2 The proposed development comprises the siting of a detached two-storey house in the back garden of an existing two-storey detached house. The development of the proposed house would clearly result in many problems due to the inadequacy of the site to accommodate two houses in the layout proposed, the inability to adequately separate the proposal from the existing house property to allow each to function as independent dwelling units, and because the proposal would cause very significant adverse impacts on the residential amenities of the existing house and neighbouring properties.

7.2.3 Placing a house to the rear of the existing house would result in very significant adverse impacts on the established house by way of interference with privacy. One cannot set aside such impacts because the proposed house is intended for occupancy by another family member. Based upon the submitted site layout plan, there would be a separation distance of approximately 38 metres between the front of the proposed house and the rear elevation of the existing house. The proposed house would be provided with a relatively confined back garden space and, effectively, no discernible curtilage to the front that would separate it from the curtilage of the house to the front. The potential for nuisance and loss of privacy is evident by the inadequacy of such a provision. The functioning of such an arrangement brings with it the issue of utilisation of private amenity space conflicts, noise, access nuisance, ongoing disturbance to the private part of the established house to the rear, etc. This could not be perceived as being sustainable and the

precedent that would arise would undermine future development of sustainable residential development in the wider area if it was to be followed. Further to this, the existing and proposed houses could not function independently as separate residential properties. It is evident that there would be an interdependence on space utilisation.

7.2.4 In addition to the above, the proposed house would be sited where it would flank adjoining residential properties to the south. The development would result in a significant nuisance for occupiers of the adjoining properties as it would lead to a loss of privacy.

7.2.5 I note the provisions of Rathkeale Local Area Plan as they relate to infill development. The Plan states that residential development of rear plots will be considered on their merits where they can be adequately accessed, and where they would not affect existing or proposed private amenities, storage or parking requirements. It is clear that the proposed development cannot meet with these requirements and is, therefore, in conflict with the Plan provisions.

7.2.6 Overall in the context of its impacts, the proposal could not reasonably be viewed as protecting and/or improving residential amenity. Therefore, it is evident that the proposal would be contrary to the zoning provision for this site and area. The development would, thus, constitute an overdevelopment of this plot.

7.3 Effluent Disposal Arrangements

7.3.1 I note firstly that the site of the proposed development is located within the development envelope of the town of Rathkeale in the Local Area Plan and is zoned for residential uses. I also acknowledge that there appears to be particular difficulties for new development gaining access to the public sewer in this location. The appellant has informed the Board of the relevant issues. The planning authority's assessment of the proposal does not refute the appellant's position on the access difficulties at this location. It is, therefore, apparent that new development at this location would, at this time and until alternative provisions are made, be dependent upon private effluent disposal arrangements. This has resulted in the application for the proposed development needing to make private on-site arrangements to meet the development's needs.

- 7.3.2 The provision of a private effluent treatment system on a site within a built-up urban area is very problematic due to the public health impacts arising and this is compounded when the proposal seeks to provide a combined system to meet the needs of more than one house, bringing with it particular further concerns about the management and maintenance of such a private system. The siting of such a treatment system between the existing and proposed houses, the proximity of the system (i.e. the tank, filter systems, etc.) to these and adjoining houses, and the ability to maintain an adequately functioning system in such an arrangement result in the development posing significant public health threats to the occupants of these properties.
- 7.3.3 Ultimately, the development of a private effluent treatment system is required to comply with accepted standards. Thus, sites being served by proprietary waste water treatment systems should be assessed and systems designed, installed and maintained in accordance with the Environment Protection Agency's guidance provisions. I note the EPA's *'Code of Practice on Wastewater Treatment and Disposal Systems serving Single Houses'* (October 2009) and I acknowledge that these standards are required to be met for individual houses under the provisions of the current Limerick County Development Plan. The Board will, however, note that the proposed development relates to a treatment plant that would serve more than one dwelling and, thus, the above referenced Code of Practice is not applicable to the development proposed as the Code relates to single house development. Having regard to the proposed house development incorporating three double bedrooms and the existence of the adjoining large two-storey house on the site, it is clear that the proposed treatment plan would be serving a population equivalent of 10 or more persons. Thus, the applicable guidance to which such development should adhere to is the EPA's *Waste Water Treatment Manual: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels*.
- 7.3.4 Without having to assess the applicant's completed site characterisation form, the suitability of the soils on this site for the development proposed, the structural design of the treatment plant, the polishing filter composition, etc., it is apparent that the proposed development is non-compliant with basic recommended separation distances set out in Table 4 of the Waste Water Treatment Manual. For a treatment system serving a population equivalent of between 10 and 40 in 2-10 houses the recommended minimum distance between a treatment system

and existing development is 28 metres. The Manual notes in Section 3.9 that there should be a buffer around waste water treatment systems. 28 metres is the minimum separation distance requirement for the development before the Board. This is required to avoid odour and noise nuisance from the treatment plant. The Manual further states:

“Residential developments should not occur within the buffer zone except in exceptional circumstances and in no case should residential development be undertaken within the distance outlined in Table 4.” (P. 12)

- 7.3.5 Having regard to the proposed waste water treatment plant being sited approximately 12 metres from the existing house, approximately 25 metres from the proposed house, and approximately 7 metres from the neighbouring house to the south, it is apparent that the proposal does not meet with minimum standards and poses a significant threat to public health. The proposed private on-site effluent treatment arrangement is, therefore, unacceptable.

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located on lands zoned 'Existing Residential' in the Rathkeale Local Area Plan 2012-2018 where it is the objective to ensure that new development is compatible with adjoining uses and to protect the amenity of existing residential areas. Having regard to the restricted nature of the proposed site, the siting of the proposed house immediately behind the established house on the plot and to the rear of neighbouring houses immediately to the south, the inadequacy of separation distances between the proposed development and these adjoining properties, and the loss of privacy arising from overlooking and nuisance, it is considered that the proposed development would result in a gross overdevelopment of this plot, would seriously injure the residential amenities of adjoining properties, would depreciate the value of these properties, would provide a substandard form of accommodation for the occupiers of the proposed

dwelling due to the restricted nature of the site, would contravene the zoning objective for the site, and would, thereby, be contrary to the proper planning and sustainable development of the area.

2. The proposed development involves the subdivision of an existing house site. This subdivision would result in an inadequate site area being provided to cater satisfactorily for the safe and adequate disposal of septic tank effluent. Furthermore, the layout of the proposed waste water treatment system would be contrary to minimum separation distances between the proposed treatment plant and existing and proposed dwellings as set out in the Environmental Protection Agency's *Waste Water Treatment Manual: Treatment Systems for Small Communities, Business, Leisure Centres and Hotels*. The development would, therefore, be prejudicial to public health.

Kevin Moore
Senior Planning Inspector

5th March 2018