



An  
Bord  
Pleanála

## Inspector's Report ABP-302534-18

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<b>Development</b>	Residential Development comprising 14 residential units (as amended at further information stage) at Rathbride Road, Kildare County Kildare
<b>Location</b>	Rathbride Road, Kildare County Kildare
<b>Planning Authority</b>	Kildare County Council
<b>Planning Authority Reg. Ref.</b>	171271
<b>Applicant(s)</b>	Tameric Management Consultants Ltd
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Tameric Management Consultants Ltd
<b>Observer(s)</b>	<a href="#">Click here to enter text.</a>
<b>Date of Site Inspection</b>	22 <sup>nd</sup> November 2018
<b>Inspector</b>	Colin McBride



## 1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.52 hectares, is located to the north of Kildare town centre on the outskirts of the town. The site is located to east of Rathbride Road and north of the railway line. The appeal site is an L-shaped site, which appears have had some buildings on it previously with the ruins of a shed apparent on site and an entrance with splayed walls and a metal gates (the site has two vehicular entrances. The site is vacant and overgrown in some places with boundary treatment consisting of existing trees and hedgerows. To the south is vacant land and to the north and west is a field which is part of a site on which permission was granted for a housing development. On the opposite side of the road (west) is existing housing development consisting of two-storey dwellings.

## 2.0 Proposed Development

- 2.1. Permission is sought for (a) the removal of former foundations, concrete stables and associated debris on site; and (b) the construction of a residential development (c. 1,914sqm GFA overall) consisting of 15 no. house units (7 x 3 bed units and 8 x 4 bed units) of 2-2.5 storeys in height (including velux/dormer/attic level gable windows), all ranging in size from c. 112.8-145sqm GFA, in a mix of detached, semi-detached and terraced style units and each with an associated private garden area. The development also provide for 30 car parking spaces; a new public open space area; a revised vehicular access arrangement from Rathbride Road; all landscaping works; site services; and all site development works.
- 2.2. The proposal was revised to 14 dwellings (8 three bed units and 6 four bed units, mixture of terraced, semi-detached and one detached dwelling) with an alternative layout in response to further information. The revised layout also included a road link into the permitted development to the north/north east permitted under ref no. 17/1018.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

Permission refused based on two reasons...

1. It is considered that the proposed development, with an internal road link to the adjacent development to the east, would represent a piecemeal approach to the development of a larger area of residentially zoned lands at this location. The proposed vehicular and pedestrian connection between the subject site and the adjacent site to the east was not subject to a detailed assessment as part of the proposed development on the adjacent lands (PI.Reg.Ref: 17/1018) and neither has the impact of through traffic from that permitted development on the current proposal been properly assessed. Therefore, it is considered that the proposed development would be premature pending the development of an overall road network for all of the lands zoned for residential development at this location and may endanger public safety by reason of traffic hazard or obstruction of road users.

2. It is considered that the proposed layout would result in exposed views of the backs of houses in an adjacent permitted development and would result in a long stretch of screen wall to the rear of these permitted houses bounding the principal vehicular access and open space within the proposed development which would represent a substandard form of development lacking in appropriate integration with existing permitted development and which would set an undesirable precedent for similar proposal of this nature and would therefore, be contrary to the proper planning and sustainable development of the area.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Planning report (11/01/18); Further information including revised layout plan to improve active frontage of the site, permeability with adjoining site, details with

terraced houses overlooking adjoining rear gardens, revision of open space to improve passive surveillance, alterations to dwellings to improve dual aspect, revisions to landscaping and the issues raised in the other technical reports.

Planning report (09/08/18): Despite the revisions in response to further information it was considered that the design and layout would give rise to substandard form of development and would impact on the amenity of future residents and the residents of permitted scheme to the east. Concerns were raised regarding orientation of dwellings relative to open space and visibility of the rear of dwellings. Refusal was recommended based on one reason, however the Senior Planner made it two reasons, which are outlined above.

### 3.2.2. Other Technical Reports

Area Engineer (04/12/17): Further information including details of revised road markings and proposal for a footpath adjacent Rathbride Road.

Environment Section (08/01/18): No objection subject to conditions.

Water Services (09/01/18): Further information including additional details of surface water and attenuation and details of a flood risk management approach.

Transportation Department (09/01/18): Further information including revised roads layout to limit number of junctions onto public road, details of footpath provision, a road safety audit, improve permeability, details of parking and lighting.

EHO (09/01/18) No objection subject to conditions.

Irish Water (17/01/18): Further information required regarding combined foul drainage and details of water supply.

Transportation Department (13/07/18) No objection subject to conditions.

Area Engineer (16/07/18) No objection.

Irish Water (07/08/18): Conditions to be included in the event of a grant pf permission.

### **3.3. Third Party Observations**

No third party observations.

### **4.0 Planning History**

No planning history.

On adjoining lands...

17/1018: Permission granted (27/04/18) for 74 dwellings and associated site works on a site to north/north east of the site.

### **5.0 Policy Context**

#### **5.1. Development Plan**

The relevant development plan is the Kildare Town Local Area Plan 2012-2018.

The site is subject to two zonings...

The southern and wider portion of the site is zoned Objective B 'To protect and improve existing residential amenity: to provide for appropriate infill residential development; to provide for new and improved ancillary services'.

The northern and narrower portion of the site is zoned C1 New Residential 'To provide and improve new residential areas and for associated local shopping and other services incidental to new residential development'.

Kildare County Development Plan 2017-2023

Chapter 17 outlines the Development Management Standards

## 5.2. Natural Heritage Designations

None in the vicinity.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged by Brock McClure Planning & Development Consultants on behalf of Tameric Management Consultants Ltd.

- In response to the first reason for refusal and the issue regarding assessment of through traffic from the adjoining development, it is noted that the Local Authority requested the link into the adjoining permitted development, which was not originally proposed.
- It is noted that a revised layout was provided including details of vehicular and pedestrian links, amendments to access junction road markings and improvement for vulnerable road users. It is noted that the applicants were not requested to provide an assessment of traffic taking into account the adjoining development at the further information stage and that the proposal in conjunction with the permitted development is below the threshold level for which a traffic assessment is required.
- The further information response included an assessment of the proposed junction onto the public road and such will operate within capacity. It is also noted that the Transportation section indicated no objection to the proposal subject to conditions. It is noted that the contention that the proposal would be a traffic hazard is undermined by the Transportation section report.
- It is noted that the proposal would not be premature pending the development of an overall network, with the proposal providing an access to the adjacent scheme.
- In relation to refusal reason no. 2 the appellants refute the argument that the design of proposal is substandard in that it allows a view of a long stretch of the rear garden walls of dwellings in the adjoining development in close

proximity to the vehicular access and public space and that such would set and undesirable precedent

- It is noted that the adjoining development was permitted under ref no. 17/1018 in a certain form and it is unfair if it prejudices development of the appeal site. It is considered that the revised layout submitted in response to further information addressed the Planning Authority's concerns and provides for a development that is appropriate in quality in the context of the development management standards.
- It is also noted that the site is constrained and irregular in shape and such dictates the layout feasible.
- It is also noted that the revised layout is dictated by the requirement from the Council to provide an access to the adjoining permitted development (17/1018) and that the adjoining permission includes a condition (no. 39) that requires transfer of lands to the Council for the completion of future permeability links.
- The appellants have provided an analysis of the layout submitted in response to further information in comparison to two alternative layouts to demonstrate such is of adequate quality in terms of density, permeability, open space provision and separation distances. It is considered that the layout submitted in response to further information is the best option and satisfactory in terms of overall quality.

## 6.2. Planning Authority Response

Response by Kildare County Council

- Kildare County Council have no further observations to make and refer to the previous reports submitted.



## 7.0 Assessment

- 7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings.

Principle of the proposed development/development plan policy

Design, layout, development management standards

Traffic/access/permeability

Appropriate assessment

### 7.2 Principle of the proposed development/development plan policy:

- 7.2.1 The site is subject to two zonings under the Kildare Town Local Area Plan 2012-2018. The southern and wider portion of the site is zoned Objective B 'To protect and improve existing residential amenity: to provide for appropriate infill residential development; to provide for new and improved ancillary services'. The northern and narrower portion of the site is zoned C1 New Residential 'To provide and improve new residential areas and for associated local shopping and other services incidental to new residential development'. Residential development is noted as being 'permitted in principle' in both zonings (Part C specific objectives of the LAP) and development in the vicinity and permitted on adjoining sites (17/1018) is residential in nature. I am satisfied that the proposal would be consistent with development land use policy and the principle of the proposed is satisfactory at this location.

### 7.3 Design, layout, development management standards:

- 7.3.1 The initial proposal was for 15 no. dwellings with such revised to 14 no. dwellings to facilitate access to the adjoining permitted development (17/1018). The initial proposal was revised in response to further information and to provide for a vehicular and pedestrian access to the adjoining permitted development (17/1018) as well as deal with concerns regarding the separation distances between the dwellings proposed and those in the adjoining development.

- 7.3.2 The revised layout provides for 14 dwellings giving a density of 28 dwellings per hectare. The revised layout is better than the original layout in that public open space is provided more centrally and a better shape than the original layout proposed. There were problems with the level of separation between back to back dwellings proposed on site (no. 6-8) and dwellings permitted in the adjoining development in the original layout (less than 22m at opposing first floor windows) and such has been addressed in the revised layout. I would consider that the assessment of the quality standard of the layout should be confined to the revised layout submitted in response to further information as such is the better of the two site layouts proposed.
- 7.3.3 The initial proposal had a density of 30 dwelling per hectare with the revised layout at 28 dwellings per hectare. This density would not be out of character at this location and is similar to existing housing developments in the vicinity and permitted developments (17/1018) on adjoining sites. I would consider that the density proposed is satisfactory.
- 7.3.4 Development Management Standards are set down under Chapter 17 of 2017-2023 Kildare County Development Plan. The revised layout provides a central and accessible public open space area that is 15.3% of the site area and is compliant with the requirement for public open space of 15% of the site area. The dimensions and internal layout of all dwellings comply with the standards set down under Chapter 17 of the County Development Plan. The provision of private open space for all dwellings is also compliant with Development Plan standards with all residential units (60sqm for three bed units and 75sqm for four bed units). The provision of car parking is 31 spaces for 14 dwellings and is compliant with the Development Plan requirement of 2 spaces per dwelling (Table 17.9). I am satisfied that the proposal meets the minimum standards for residential development set down under Chapter 17 of the County Development Plan.
- 7.3.5 The second refusal reason raises concerns about the proposal being a substandard form of development and visually unacceptable as there is a long stretch of boundary wall (rear boundary of adjoining permitting development) adjacent the public open

space and vehicular entrance). As noted above the revised layout was in response to further information and is the better of the two site layouts from the point of view of open space provision. As noted in the previous sections the design and layout of this proposal is satisfactory in the context of development management standards (public open space, private open space and parking). I do not consider the second reason for refusal is fair and I would note that the layout is dictated by the shape of the site and the fact that permission has been granted for a development on the adjoining site. The original layout proposed had issues regarding separation distances to the rear of the dwellings proposed and the revised layout has addressed such. It is acknowledged that there is a long stretch of wall that will be visible, however I do not consider this to be unacceptable or a reason for refusing a housing development that is a reasonable standard. I would consider that the issue of the wall could be dealt with using additional landscaping or planting and is not a reason for precluding the development.

7.3.6 The first reason for refusal indicates that the proposal is considered a piecemeal approach to development of residential zoned lands at this location. The appeal site is an infill site and permission has already been granted on the adjoining site for a housing development under ref no. 17/1018. I do consider this view of the Council is fair in the context that permission was granted for the adjoining development in recent months without the issue of co-ordinated development being a significant issues. I am satisfied that the layout as proposed does not impinge on the comprehensive development of lands at this location and the applicant has revised the proposal to link into the permitted development. There are undeveloped lands to the site, however the proposal does not impinge on the development of such as these lands have a significant frontage along the public road and an existing vehicular entrance. I am satisfied that proposal be satisfactory in the context of the comprehensive development of zoned lands at this location.

7.3.7 The proposal is for a housing scheme consisting of two-storey semi-detached dwellings and would not of character at this location, which is characterised by similar existing housing development with more similar development permitted on an

adjoining site. I am satisfied that the proposal would be acceptable in the context of the visual amenities of the area.

#### 7.4 Traffic/access/permeability:

7.4.1 The appeal site has two existing vehicular access points. It is proposed close these entrances and open a new vehicular access point. The proposal entails provision of a new footpath along the road frontage of the site and new markings on the public road at the junction of the vehicular access and the Rathbride Road. The appeal site is located within the urban speed limit zone and visibility at the proposed entrance point would appear to be of a good standard.

7.4.2 In the process of the application the applicant was requested to provide a revised layout that including permeability with a proposed development on the adjoining site to the north and north east (17/1018). The revised layout provides for both pedestrian vehicular integration with the adjoining development of 74 houses, which has since been permitted.

7.4.3 The first reason for refusal notes that the proposed vehicular and pedestrian connection between the subject site and the adjacent site to the east was not subject to a detailed assessment as part of the proposed development on the adjacent lands (PI.Reg.Ref: 17/1018) and neither has the impact of through traffic from that permitted development on the current proposal been properly assessed. Therefore, it is considered that the proposed development would be premature pending the development of an overall road network for all of the lands zoned for residential development at this location and may endanger public safety by reason of traffic hazard or obstruction of road users.

7.4.4 The initial proposal for the development subject to this appeal did not include a connection to the development on the adjacent site with the appeal site having its own road frontage and proposal for vehicular access. The connection between the two came about on the request of the Council. The Council have permitted the 74

dwellings on the adjoining site and this scheme has a vehicular entrance onto the Rathbride Road further north along the public road. I do not agree that there is a need for a traffic assessment of through traffic from the permitted development on the proposed development and would note that the proposed scheme is for 14 dwellings and the permitted scheme is for 74. The proposal as sought would provide for two vehicular entrance points serving both schemes. Both the proposed and permitted schemes are within the urban speed limit zone and provide internal access roads of a high standard typical of suburban development of this type. I am satisfied that the proposal taken in conjunction with permitted development through the connection would not give rise to any traffic issues or cause a traffic hazard. It is notable that the Council's Transportation Section noted they were satisfied with revised site layout in the context of traffic safety and convenience.

#### 7.5 Appropriate Assessment:

7.5.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

### 8.0 **Recommendation**

8.1. I recommend a grant of permission subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the design, scale and layout of the proposed development and subject to the following conditions, it is considered that the proposal has adequate regard to the visual amenities of the area, and that the proposal would be acceptable in terms of residential amenity and traffic safety. The proposal would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on 05th day of July, 2018, 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.

Reason: In the interest of clarity.

2. Public lighting shall be provided in accordance with a scheme, which shall include lighting along pedestrian routes through open spaces details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Such lighting shall be provided prior to the making available for occupation of any house.

Reason: In the interests of amenity and public safety.

3. All service cables associated with the proposed development (such as electrical, telecommunications and communal television) shall be located underground. Ducting shall be provided by the developer to facilitate the provision of broadband infrastructure within the proposed development.

Reason: In the interests of visual and residential amenity.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services. The applicant shall agree the full details of foul sewerage and surface water provisions in writing with the Planning Authority prior to the commencement of development.

Reason: In the interest of public health.

5. Proposals for an estate/street name, house and apartment numbering scheme and associated signage shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, all estate and street signs, and house/apartment numbers, shall be provided in accordance with the agreed scheme. The proposed name(s) shall be based on local historical or topographical features, or other alternatives acceptable to the planning authority. No advertisements/marketing signage relating to the name(s) of the development shall be erected until the developer has obtained the planning authority's written agreement to the proposed name(s).

Reason: In the interests of urban legibility and to ensure the use of locally appropriate placenames for new residential areas.

6. The open spaces shall be developed for, and devoted to public use. They shall be kept free of any development and shall not be incorporated into house plots.

Reason: In order to ensure the development of the public open space areas, and their continued use for this purpose.

7. The areas of public open space shown on the lodged plans shall be reserved for such use and shall be levelled, contoured, soiled, seeded, and landscaped

in accordance with the landscaping plan submitted. This work shall be completed before any of the dwellings are made available for occupation and shall be maintained as public open space by the developer until taken in charge by the local authority.

Reason: In order to ensure the satisfactory development of the public open space areas, and their continued use for this purpose.

8. Prior to commencement of development, the applicant or other person with an interest in the land to which the application relates shall enter into an agreement in writing with the planning authority in relation to the provision of social and affordable housing in accordance with the requirements of section 96 of the Planning and Development Act 2000, as amended, unless an exemption certificate shall have been applied for and been granted under section 97 of the Act, as amended. Where such an agreement is not reached within eight weeks from the date of this order, the matter in dispute (other than a matter to which section 97(7) applies) may be referred by the planning authority or any other prospective party to the agreement to the Board for determination.

Reason: To comply with the requirements of Part V of the Planning and Development Act 2000, as amended, and of the housing strategy in the development plan for the area.

9. Site development and building works shall be carried out only between the hours of 08.00 to 19.00 Mondays to Fridays inclusive, between 08.00 to 14.00 on Saturdays and not at all on Sundays or public holidays. Deviation from these times shall only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

**Reason:** In order to safeguard the residential amenities of property in the vicinity.

10. Construction and demolition waste shall be managed in accordance with a construction waste and demolition management plan, which shall be



submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall be prepared in accordance with the “Best Practice Guidelines on the Preparation of Waste Management Plans for Construction and Demolition Projects”, published by the Department of the Environment, Heritage and Local Government in July, 2006. The plan shall include details of waste to be generated during site clearance and construction phases, and details of the methods and locations to be employed for the prevention, minimisation, recovery and disposal of this material in accordance with the provision of the Waste Management Plan for the Region in which the site is situated.

Reason: In the interests of sustainable waste management.

11. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including noise management measures and off-site disposal of construction/demolition waste.

Reason: In the interests of public safety and residential amenity.

12. Prior to commencement of development, the applicant shall submit full details of a properly constituted Owner’s Management Company for the written agreement of the planning authority. This shall include a layout map of the development showing those areas to be maintained by the Owner’s Management Company. Membership of this Company shall be compulsory for all purchasers of property in the development. Confirmation that this Company has been set up shall be submitted to the planning authority prior to the occupation of the first residential unit. All roads and services within the privately managed areas shall be completed to the planning authority’s taking in charge standards.

Reason: To provide for the satisfactory completion and maintenance of the development in the interest of residential amenity.

13. Prior to undertaking works to be carried out on the public road (including on footpaths, road markings and signage), the applicant shall obtain a Road Opening Licence from the Road Maintenance and Control Section.

Reason: In the interest of the proper planning and sustainable development of the area.

14. Prior to commencement of development, details of the materials, colours and textures of all the external finishes for proposed dwellings and boundary treatment, shall be submitted to, and agreed in writing with, the planning authority. Samples of materials to be used shall be made available on site for inspection by the planning authority. Works to the Protected Structure shall be undertaken concurrently with the adjoining development. A schedule for the phasing of the development shall be submitted to the planning authority for its written agreement prior to commencement of development.

Reason: In order to safeguard the special architectural or history interest of the building.

15. A plan containing details for the management of waste (and, in particular, recyclable materials) within the development, including the provision of facilities for the storage, separation and collection of the waste and, in particular, recyclable materials and for the ongoing operation of these facilities shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. Thereafter, the waste shall be managed in accordance with the agreed plan.

Reason: To provide for the appropriate management of waste and, in particular recyclable materials, in the interest of protecting the environment.

16. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

17. Prior to commencement of development, the developer shall lodge with the planning authority a cash deposit, a bond of an insurance company, or other security to secure the provision and satisfactory completion of roads, footpaths, watermains, drains, open space and other services required in connection with the development, coupled with an agreement empowering the local authority to apply such security or part thereof to the satisfactory completion of any part of the development. The form and amount of the security shall be as agreed between the planning authority and the developer or, in default of agreement, shall be referred to An Bord Pleanála for determination.

**Reason:** To ensure the satisfactory completion of the development.

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Colin McBride  
Planning Inspector

12<sup>th</sup> December 2018