



An
Bord
Pleanála

Inspector's Report ABP 306488-20.

Development	Upgrade the existing drainage system to include an EPA compliant waste water treatment system as previously proposed (D06A/0093 – Condition no. 8).
Location	Saint Anthony's, Ferndale Glen, Rathmichael, Dublin, D18 T2N5.
Planning Authority	Dún Laoghaire-Rathdown Co. Council.
Planning Authority Reg. Ref.	D19A/0819
Applicant	Colum Carty
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant	Ger Kelly
Observers	None
Date of Site Inspection	7/3/20
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The subject site is located in Ferndale Glen Rathmichael. Rathmichael is located to the west of Shankill Co. Dublin. Ferndale Glen is cul-de-sac located off Ferndale Road and close to Rathmichael Church. It contains approximately 10 no. large detached dwellings on plots which accommodate on-site effluent treatment.
- 1.2. The appeal site, which has a stated area of 0.26 hectares, is situated on the northern side of Ferndale Glen. The existing property St. Anthony's is a large two-storey detached dwelling. It is bounded by a high concrete block wall and served by a gated vehicular entrance.
- 1.3. The western roadside boundary is formed by a high wall. The site is bounded by a dwelling to the north-west and to the east. The neighbouring two-storey dwelling to the east was constructed within the original plot of St. Anthony's. This dwelling and the subject dwelling St. Anthony's are currently both connected to the wastewater treatment plant, polishing filter and percolation area to the front of the eastern dwelling.

2.0 Proposed Development

- 2.1. Permission is sought for the Upgrade the existing drainage system to include an EPA compliant waste water treatment system as previously proposed (D06A/0093 – Condition no. 8).

3.0 Planning Authority Decision

3.1. Decision

Permission was granted subject to 3 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- It was concluded that the proposed development is regularising an existing planning permission and no additional loading will be added to the system.

The EHO advisor carried out an inspection of the system and has no concerns and the Drainage Department have no objection. The proposed development is consistent with the County Development Plan policies. Permission was recommended on that basis.

3.2.2. Other Technical Reports

Drainage Department – The applicant is regularising an existing permission and no additional loading will be added to the system. The EHO advisor has carried out an inspection of the system and has no concerns. The proposal is consistent with policy EI 23 of the Development Plan which refers to the development of wastewater treatment systems within the Rathmichael area. DLR Municipal Services have no objection.

Transportation Planning – No objection subject to condition.

E.H.O – The proposal is acceptable subject to the following;

1. The development must be in compliance with the Planning and Development Act 2000 Fourth Schedule, 10(g) the development should “not be prejudicial to public health”.
2. Photograph evidence of the BAF 6PE Wastewater Treatment System being installed, shall be submitted to the Planning Authority. A Chartered Engineer, Hydro geologist or other experienced qualified professional who has been deemed acceptable to the Planning Authority (with professional indemnity insurance) shall certify that the upgraded wastewater treatment and disposal system has been installed in accordance with EPA COP 2009.
3. The applicant must provide evidence of an annual maintenance contract for the proposed ‘BAF 6PE Wastewater Treatment System’ to the Planning Authority.

3.3. Third Party Observations

- 3.3.1. The Planning Authority received one submission/observation in relation to the application. The main issues raised are similar to those set out on the third party appeal.

4.0 Planning History

Reg. Ref. D04A/1358 – Permission was granted for the construction of two-storey dwelling with effluent treatment system and percolation area on a 0.16 hectare site to the east of the existing site and a new effluent treatment system and percolation area to replace the existing septic tank for the existing dwelling on the remaining 0.3 hectare area at St. Anthony’s, Ferndale Glen. The permission was not implemented.

Reg. Ref. D06A/0093 – Permission was granted for the construction of a two-storey over basement dwelling with an area of 616sq m with proprietary wastewater treatment system and percolation area on 0.2 hectare site. The development also included a new proprietary wastewater treatment system and percolation area for existing dwelling on the remaining 0.2633 hectare property and new vehicular entrances in lieu of the development for which permission was granted (Reg. Ref. D04A/1358) comprising two storey dwelling (301sq m) on 0.16 hectare site and ancillary works.

Condition no. 8 referred to effluent treatment and stated;

‘The package sewage treatment system must be installed by a registered contractor in accordance with the requirements of the relevant Agreement certificate and the recommendations of the EPA Wastewater Treatment Manual ‘Treatment systems for single houses’. The applicant must enter into a continuous maintenance agreement with the manufacturer.

Reason: In the interest of a proper standard of development.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The site is governed by the provisions of the Dún Laoghaire – Rathdown County Development Plan 2016-2022.
- 5.1.2. The site is zoned Objective ‘A’ with a stated objective ‘to protect and/or improve residential amenity’.
- 5.1.3. The site lies within the Rathmichael Ground and Surface Water Protection Zone. Specific Local Objective 126 of the Development Plan states;

- 5.1.4. 'It is Council policy to refuse planning permission for any new developments which include an on-site wastewater treatment facility within the Rathmichael area until the groundwater issues in the area are resolved or ameliorated.
- 5.1.5. Policy EI 23 – It is Council policy to refuse planning permission for any new developments which include an on-site wastewater treatment facility within the Rathmichael area until the groundwater issues in the area are resolved or ameliorated (See SLO 126 Maps 10 and 14). This policy will be implemented through the Development Management process through the refusal of planning permission for any new developments – which include an on-site wastewater treatment facility – within the Rathmichael area (See SLO 126 Maps 10, and 14 for the boundary of this area). This policy is necessitated due to the potential impact of un-sewered developments on groundwater and surface water quality and also on the ability of the Council to meet its obligations under the Water Framework Directive.
- 5.1.6. Proposals for change of use or alteration to, or extension of, existing approved developments within these areas involving on-site wastewater treatment facilities will be assessed in the context of there being no potential deterioration of ground or surface waters.

5.2. **Code of Practice: Wastewater Treatment Systems for Single Houses 2009**

- 5.2.1. Sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

5.3. **Natural Heritage Designations**

- 5.3.1. The nearest Natura 2000 site is Ballyman Glen SAC (Site Code 000713) which is situated circa 2.46km to the south.

5.4. **EIA Screening**

- 5.4.1. Having regard to the nature of the proposed development and its location removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

A third party appeal was submitted by Ger Kelly. The issue raised is as follows;

- In relation to the development permitted under PA Reg. Ref. D19A/0819 the appellant considers that it contravenes the Dun Laoghaire Rathdown Co. Council Development Plan 2016-2022 policy in respect of Rathmichael Ground and Surface Water Protection.
- The proposed development would be prejudicial to public health and contrary to the proper planning and sustainable development of the area.

6.2. Applicant Response

A response to the third party appeal was submitted by Roger Brassil Associates on behalf of the applicant Colum Carty. The issues raised are as follows;

- The application refers to the site which was sub-divided where planning permission was granted initially in 2004 under Reg. Ref. D04/1358 and then subsequently in 2006 under Reg. Ref. D06A/0093 for a detached dwelling to the side garden of St. Anthony's the original dwelling.
- The permission granted under Reg. Ref. D06A/0093 was completed and development was constructed substantially in accordance with the permission apart from one aspect which the current application seeks to address.
- Condition no. 8 of Reg. Ref. D06A/0093 specified that separate wastewater treatment systems be provided for each of the two dwellings, i.e. the new and existing. It is highlighted that the construction of a second wastewater treatment system was not carried out due to the financial crash and that now circumstances permit the applicant to address the matter.
- In lieu of the construction of a second wastewater treatment system a temporary connection was made to direct the foul sewer from the original house into the newly provided system in the new house. The storm water was treatment for the development was carried out in accordance with the provisions of BRE 365.

- The current application seeks to rectify the matter. A separate wastewater treatment system is proposed for the original house as was required under condition no. 8 of Reg. Ref. D06A/0093 subject to the higher standard which now applies under the provisions of EPA 2009.
- Under Reg. Ref. D04A/1358 permission was granted for a two-storey dwelling with an area of 301sq m with an Envirocare effluent treatment system and a percolation area on a 0.16 hectares site to the east of the existing site and a new Envirocare effluent treatment system and percolation area to replace an existing septic tank for the existing dwelling on the remaining 0.3 hectare area. The location of the permitted effluent treatment system to serve the existing house was to west/south-west, with the system to serve the new house located to its front (south). This permission was not implemented.
- The permission granted under Reg. Ref. D06A/0093 amended the decision granted under Reg. Ref. D04A/1358 by altering the sub-division between the two sites and amending the design of the permitted new house. The revised sub-division meant that the new house had a site area of 0.2 hectares and the existing dwelling had a site area of 0.2633 hectares. As per the original permission the existing house was proposed to have its septic tank replaced by a new proprietary wastewater treatment system and percolation area and the new house would be served by a new proprietary wastewater treatment system and percolation area.
- Condition no. 8 of the permission related to the implementation of the wastewater treatment system. It was not complied with at the time and the two dwellings remain connected to the wastewater treatment system installed within the curtilage of and intended to serve the new house only.
- It is submitted that as permission has previously been granted for the effluent treatment system for the original house and that as it represented a planning gain in terms of that house that the it is appropriate that the Council granted permission for the proposal as it provides for separate sewerage treatment for both houses. This is the represents the scheme which was permitted by the Council in the first instance.

- In conclusion, it is submitted that the granting of permission will ensure that both dwellings will be fully compliant with the relevant planning permissions.

6.3. **Planning Authority Response**

- It is considered that the grounds of appeal do not raise any new matter which in the opinion of the Planning Authority would justify a change of attitude to the proposed development.

7.0 **Assessment**

The main issues in this appeal are those raised in the grounds of appeal submitted. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Effluent treatment
- Appropriate Assessment

7.1. **Effluent treatment**

- 7.1.1. Permission is sought to upgrade the existing drainage system to include an EPA compliant waste water treatment system as previously proposed and required under condition no. 8 of Reg. Ref. D06A/0093.
- 7.1.2. The appeal refers to the provisions of Dun Laoghaire Rathdown Co. Council Development Plan 2016-2022 and states that the proposed development contravenes the policy in respect of Rathmichael Ground and Surface Water Protection.
- 7.1.3. In relation to the main contention in the appeal, Policy EI 23 of the Dún Laoghaire – Rathdown County Development Plan 2016-2022 is of particular relevant. Policy EI 23 states that ‘It is Council policy to refuse planning permission for any new developments which include an on-site wastewater treatment facility within the Rathmichael area until the groundwater issues in the area are resolved or ameliorated (See SLO 126 Maps 10 and 14). This policy will be implemented through the Development Management process through the refusal of planning permission for any new developments – which include an on-site wastewater

treatment facility – within the Rathmichael area (See SLO 126 Maps 10, and 14 for the boundary of this area). This policy is necessitated due to the potential impact of un-sewered developments on groundwater and surface water quality and also on the ability of the Council to meet its obligations under the Water Framework Directive.’

- 7.1.4. In relation to proposals for change of use or alteration to, or extension of, existing approved developments within these areas involving on-site wastewater treatment facilities will be assessed in the context of there being no potential deterioration of ground or surface waters. This section of the policy is of relevance to this appeal because the proposal seeks to regularise the existing situated where two existing dwellings are currently connected to one existing wastewater treatment system. The proposal therefore would not result in any new additional loading as the PE is stated as 6. Therefore, I consider that the proposal would improve and regularise the current situation and provide a planning gain. Accordingly, I would consider that subject to the site being suitable for on-site effluent treatment and the proposed development subject it being carried out and maintained in accordance with the EPA Code of Practice 2009 that there would not be any potential for deterioration of ground or surface waters.
- 7.1.5. It is proposed to install an Oakstown BAF 6 PE, secondary wastewater treatment system and percolation area. It is proposed to locate the treatment plant circa 7m to the west of the dwelling and the percolation is located on the layout plan 10m to the west of the dwelling. The percolation area is indicated 3m from the site boundaries. The dwelling is connected to the public mains water supply. Table 6.1 of the EPA Manual – Treatment Systems for Single Houses sets out the minimum separation distances, the minimum distance from a watercourse or stream to a percolation area is stated as 10m and the minimum distance from a road to the percolation area is stated as 4m. There is a watercourse/stream located 250m to the southeast of the percolation area. Bedrock and the water table was not encountered up to a depth of 2.5m below ground level during the site testing. The groundwater protection response for the area is R1 which means the site is suitable for an on-site system subject to normal good practice.
- 7.1.6. The site suitability assessment indicates that a T value of 18.31 was recorded on site. Table 6.3 of the EPA Manual – Treatment Systems for Single Houses sets out the interpretation of percolation test results. A T value which is less than greater than

3 and less than 50 means that the site is suitable for the development of a septic tank system or a secondary treatment system discharging to ground water.

7.1.7. P tests were also carried out and a P value of 19.11 was recorded. Table 6.3 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a secondary treatment system with polishing filter at ground surface or overground. As detailed in the Site Characterisation Report prepared by Dr. Eugene Bolton the site is suitable for a standard septic tank however due the limited space it is recommended to install a Package aeration system and polishing filter. The proposed area of the polishing filter is 45m². As detailed on Drawing No: FGR_D5C – Proposed Drainage Plan & Section, the proposed polishing filter and percolation area comprises a minimum of 300mm of topsoil, Terran Geotextile layer and 300mm Gravel distribution layer. It is proposed to discharge the treated effluent to ground water. The report of the Environmental Health Officer had no objection to the proposed on-site effluent treatment system subject to photograph evidence of the BAF 6PE Wastewater Treatment System being installed, be submitted to the Planning Authority and that a Chartered Engineer, Hydro geologist or other experienced qualified professional who has been deemed acceptable to the Planning Authority with professional indemnity insurance shall certify that the upgraded wastewater treatment and disposal system has been installed in accordance with EPA COP 2009. Furthermore, they required that the applicant must provide evidence of an annual maintenance contract for the proposed 'BAF 6PE Wastewater Treatment System' to the Planning Authority.

7.1.8. Having regard to the information submitted including the site characterisation report, reports of the EHO and the proposal to install a secondary treatment system with percolation area and polishing filter, I consider that site is suitable for the proposed on-site secondary effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.

7.2. **Appropriate Assessment**

7.2.1. The appeal site is not within or adjoining any Natura 2000 site. Having regard to the nature and scale of the proposed development, the location of the site in a serviced suburban area and the separation distance 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

9.1. Having regard to the zoning provisions for the site as set out in the Dún Laoghaire-Rathdown County Development Plan 2016-2022 and to the design, and layout of the development proposed, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure amenities of the area or of property in the vicinity, and would not be prejudicial to public health. The proposed development 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, 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.
 - (a) The proposed effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 25th day of October, 2019, and in accordance with

the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Within three months of the grant of permission, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

Siobhan Carroll
Planning Inspector

17th April 2020