



An
Bord
Pleanála

Inspector's Report ABP315570-23

Development

Construction of 4 no. dwellings with 2 no. car parking spaces with individual wastewater treatment systems and percolation areas. Rewidening of existing entrance and the provision on 1 no. additional new entrance including all associated landscaping, site works and new access road.

Location

School Road, Rathcoffey, Donadea, Co. Kildare

Planning Authority

Kildare County Council

Planning Authority Reg. Ref.

221248

Applicant(s)

Bracq Limited

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party Appeal

Appellant(s)

Bracq Limited

Observer(s)

Vincent Galvin

Date of Site Inspection

19th July 2023

Inspector

Terry O' Leary

1.0 Site Location and Description

- 1.1. The subject site is located within the rural settlement boundary of Rathcoffey and is accessed off School Road.
- 1.2. Rathcoffey is situated approximately 5.3km to the northern side of Clane via the R408 & R407. Rathcoffey is also situated approximately 8.5km south of Maynooth via the R408.
- 1.3. The site has a stated area of c. 0.6284 Ha with a mature screen boundary to the eastern side adjacent to School Road.
- 1.4. There are existing residential dwellings to the northern and southern sides with an open and unfenced boundary to the western side.

2.0 Proposed Development

- 2.1. Permission is sought to construct 4 no. 4-bedroom detached dwellings with stepped roofs with private gardens to the front and rear.
- 2.2. The proposed dwellings will be two-storey with single storey elements to the side and rear.
- 2.3. The proposed floor area of the 4 no. detached dwellings are to be 293 square meters.
- 2.4. Access to the proposed development is from School Road with an additional access to be formed to the site towards the northern boundary. A one-way system is proposed with traffic entering from the northern side of the site and existing to the south back onto School Road.
- 2.5. Individual on-site wastewater treatment systems are proposed for the 4 no. houses.
- 2.6. A connection to the existing watermain is proposed to serve the 4 no. houses.

3.0 Planning Authority Decision

3.1. Decision

Kildare County Council refused planning permission for the proposed development on the 12th December 2022 citing three reasons which can be summarised as follows;

1. The proposed dwelling designs are not in accordance with the rural building form of the particular local area and would set an undesirable precedent for similar type development and would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the evidence of a high-water table and poor percolation characteristics of the soil, it is considered that the site cannot be drained satisfactorily. Notwithstanding the proposed use of proprietary effluent treatment systems, the treated effluent will not move off the site and the proposed development would be prejudicial to public health and constitute an unacceptable risk of water pollution.
3. There is a concern regarding the multiplicity of existing domestic wastewater treatment plants in the area and their cumulative impact on the local environment. Concern is also expressed about the suitability of the site to accommodate discharge from 4 no. separate domestic wastewater treatment plants and that the proposed development is premature pending the upgrade of the existing licenced Waste Water Treatment Plant in Rathcoffey.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report from Kildare County Council states that there are concerns regarding the ability of the site to accommodate an on-site wastewater treatment system and therefore it is recommended that permission should be refused.

3.2.2. Other Technical Reports

Area Engineer: No objection subject to conditions

Development Control Section: File referred, no response

Chief Fire Officer: No objection

Environmental Health Officer: Refusal recommended due to evidence of high water table

Roads Design Section: Further information requested

Water Services: No objections subject to conditions

3.3. Prescribed Bodies

Irish Water: No objections subject to conditions

3.4. Third Party Submissions / Observations / Representations

A third party observation was made as follows;

3.4.1. Vincent Galvin

- Concerns regarding a phased plan and concept design map
- Notes that the overall finished concept is unclear
- Concerns regarding scale of the plan, site layout, internal and external road layout and number of proposed units and their positioning
- Concerns regarding increased traffic and on the road system due to the increase in housing

4.0 Planning History

09/725

Permission granted to Ciaran Murray for development comprising 4 no. detached one and a half story dwellings with 4 no. detached garages served by individual EPS Bison treatment systems and all ancillary site works. This decision was subsequently overturned on appeal by An Bord Pleanála due to groundwater and ponding concerns and that the proposed development would pose an unacceptable risk of contamination of both ground and surface waters, be prejudicial to public health and be contrary to the proper planning and sustainable development of the area.

13/71

Permission granted to Richard McNally subject to conditions for a new agricultural site entrance including all associated site works.

5.0 Policy and Context

5.1. Kildare County Development Plan 2017 – 2023 (Expired Plan)

Kildare County Council considered the application under the Kildare County Development Plan 2017-2023 which has now since expired. Chapter 2 of that plan sets out the core strategy and numbers of dwelling units which could be facilitated in each settlement area during the lifetime of that plan. Chapter 4 of that plan provided high-level details such as appropriate locations for new residential developments and Chapter 17 sets out development management standards for developments in areas such as roads, landscaping, water services and built heritage.

5.2. National Planning Framework

Project Ireland 2040 is the Government's overarching long-term policy platform to guide and manage the future growth and development of the country. The primary aim of Project Ireland 2040 is to improve the quality of life in Ireland for all the

country's citizens by creating and promoting opportunities for people and protecting and enhancing our environment. In order to achieve this goal, the NPF includes a series of national policy objectives (NPOs), which sets out the intentions of the plan within specific areas, most notably Serviced Sites, Regeneration and Renewal and Climate Resilience. NPO 18b of the NPF requires the Council to develop a programme to attract people to build their own homes and live in small towns and village. Under this Plan all small towns, villages and settlements were assessed for the provision of serviced development sites. Specific locations within the various settlements have been identified, where serviced sites could be located.

5.3. Kildare County Development Plan 2023 – 2029 (Current Plan)

The Kildare County Council Development Plan 2023 – 2029 is the current operative development plan and the following relevant policy objectives from that plan relate to the proposed development. Rathcoffey is designated as a Rural Settlement in the Kildare County Settlement Strategy as set out in Volume 2 of the Kildare County Development Plan 2023 – 2029. Volume 2 is informed by the National Planning Framework (NPF) and Regional Spatial and Economic Strategy (RSES) for the Eastern and Midlands Region (EMRA) Area. The following objectives relate to Rural Settlements such as Rathcoffey;

Policy GO 1 – Provide for new residential development which is in accordance with the Core Strategy and Settlement Strategy

Policy GO 2 – Require that an appropriate mix of housing type, tenure, density and size is provided in all new residential developments to meet the needs of the county's population.

Policy GO 3 – Particularly support and encourage residential development on under-utilised land and/or vacant lands including “infill” and “brownfield” sites, subject to a high standard of design and layout (to include high quality permeability connections) being achieved.

Policy GO 4 – Provide viable alternatives to rural one-off housing in the form of serviced sites with adequate infrastructure to attract people to build their own homes and to live in more sustainable, serviced settlements.

Policy GO 26 - Connect where feasible, communal effluent treatment systems and individual one-off dwellings serviced by individual waste water treatment plants to the public network.

Policy GO 29 - Identify any deficiencies in the surface water drainage systems of the settlements and to facilitate the improvement of these systems where necessary subject to available resources.

Policy HO 24 - Promote and facilitate the provision of sustainable alternatives to one off housing through the designation of lands specifically for serviced sites across a series of villages and rural settlements in County Kildare.

Policy HO 059 - Carefully manage Single Rural Dwelling Densities to ensure that the density of one-off housing does not exceed 30 units per square kilometre, unless the applicant is actively engaged in agriculture, or an occupation that is heavily dependent on the land and building on their own landholding.

Policy HO P27 - Require all applications to demonstrate, to the satisfaction of the Planning Authority that the proposed development site can accommodate an on-site wastewater treatment system in accordance with the EPA Code of Practice for Wastewater Treatment Systems for single houses (2021), the County Kildare Groundwater Protection Scheme, and any other relevant documents / legislation as may be introduced during the Plan period.

5.4. Rathcoffey Rural Settlement Boundary

The subject site is located adjacent to but outside of the Rathcoffey Rural Settlement Map (V2 - 4.18) which forms part of the Kildare County Council Development Plan 2023 – 2029.

5.5. Natural Heritage Designations

There are no features of built or natural heritage located within the vicinity of the site.

5.6. EIA Screening

Having regard to the nature and modest scale of the proposed development

comprising 4 no. single houses, their location remote from sensitive and ecological sites, and the likely emissions therefrom it is possible to conclude that the proposed development is not likely to give rise to significant environmental impacts and the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The first party appeal has been prepared by Bracq Limited and was received by An Bord Pleanála on the 17th January 2023 and the following is in summary the grounds of appeal;

- The concerns raised by Kildare County Council about architectural design are completely unfounded and that design is inspired by Clochan style design with the overall intent of ensuring the design fits into the landscape.
- The design is consistent with a number of other houses in the vicinity.
- That there has been confusion on the part of the environmental health officer from Kildare County Council and that groundwater readings were taken from an adjacent site in error.
- That precise groundwater levels taken by a Kildare County Council engineer have been over-ruled and these groundwater levels for sites 1,2 & 4 passed.
- That discrepancies in the readings of groundwater levels by Kildare County Council staff are impossible.
- No background analysis has been provided to substantiate findings on groundwater levels.
- That concerns about site ponding are baseless and a loose opinion on the part of the environmental health officer.
- Groundwater readings were taken subsequent to very wet weather and at a time when the sites were particularly wet.

- That it would have been appropriate to grant a number of the permissions rather than refusing them all based on groundwater readings.
- Contests the suggestion that there is a multiplicity of wastewater treatment systems and that local houses are not served by private borewells.
- References the granting of planning permissions 15/906, 16/1218 & 19/860 on a nearby site that demonstrates a similar contour and drainage characteristic to the subject site.
- That the requirement for a hydrological assessment is unnecessary due to the ability to grant 2 or 3 houses potentially.
- That the broader master plan previously prepared for the subject site and adjoining lands should not have been cited in this planning decision and that the reference to previous plans is improper.
- Unreasonable for Kildare County Council to expect a single developer to install a waste water treatment plant to serve the entire Rathcoffey village.
- That the proposed 4 house development is consistent with a sensible incremental approach to development in Rathcoffey until the a municipal waste water treatment plant is constructed.
- That refusing a 4 house development based on what might happen across a 20 acres site is entirely out of context.
- That this planning decision is out of context with Kildare County Council's decision to grant 17 houses nearby.
- That the construction of 4 houses does not warrant any changes to the road system and that the subject site has its own internal road to limit the number of new entrances onto the public road.
- That in 2021 the planning applicant facilitated access for the school to its new car park and that achieved a net improvement or reduction in car journeys on the road of 84 journeys and this needs to be considered in the overall context of vehicular movement adjacent to the subject site.
- The applicant has invested heavily in Rathcoffey village as well as providing car parking for the local school.

- That no recognition was given in the planning permission determination for the contribution that the planning applicant has made in Rathcoffey.
- That the planning refusal by Kildare County Council was met with great disappointment by members of the community.
- Concludes that the proposed development is precisely the type of development that encourages community and allows people to live in town and village centres and enables a cohesive approach to development.
- Further concludes that the grounds for planning refusal by Kildare County Council were at times arbitrary and ultimately undermine good planning process.

6.2. Planning Authority Response

The Planning Authority has reviewed the content of the first party appeal and has no further comment or observation to make. The Planning Authority refers An Bord Pleanála to the Planning Authority's Planning Reports and the reports of the various technical departments referred to during the assessment of the planning application.

6.3. Observations

An observation was received electronically by An Bord Pleanála on the 13th February 2023 from Vincent Galvin. The following is in summary the outline of the observation;

- Notes that the planning appeal will be subject to assessment under the Kildare County Development Plan 2023-2029.
- References previous planning refusals on the subject lands for reasons such as a high water table and poor percolation capabilities.
- Specifically references the from the planning refusal Condition 3 which outlies a proliferation of waste water treatment plants and cumulative impact on the environment of these waste water treatment plants.
- That the proposed development is premature in the absence of a municipal waste water treatment plant

- That not all houses in the vicinity are served by mains water and that a dwelling house at eircode W91 X0Xs is served by a private well that is at risk of contamination from the proposed development.
- That School Road (L-50351) is a single land cul-de-sac with no footpaths or public lighting and that it is surprisingly busy at times.
- References another planning permission application for 2 houses adjacent to the subject site under Kildare County Council planning reference 221253. This planning permission has subsequently been refused by Kildare County Council on the 22/02/2023

6.4. Further Responses

None

7.0 Assessment

The main issues for consideration in this appeal can be considered under the following headings;

- Architectural Design
- Elevated Water Table
- Multiplicity of Private Waste Water Treatment Plants
- Appropriate Assessment

7.1. Architectural Design

- 7.1.1. The planning permission application provides a design statement from a registered architectural firm for the proposed house styles.
- 7.1.2. The stated overall design ambition for the proposed new houses is gently complementary and contemporary rather than replicating precise old forms or details of vernacular or barn type structures in the landscape.
- 7.1.3. Section 15.4.6 of the Kildare County Development Plan 2023 – 2029 outlines that in addition to an appropriate layout, a high standard of building design, detailing and

specification of materials and a high standard of craftsmanship will be required for new housing developments. While the planning authority welcomes contemporary architecture new developments should not be incongruous or have an overbearing effect on the established environment. Context remains very important, particularly in the case of the smaller towns and villages in the county such as Rathcoffey.

- 7.1.4. The proposed house design is not in my opinion incongruous and it will not have an overbearing effect on the environment where there are old industrial buildings nearby. Some revisions to the colour palate within the design models would soften the visual impact on the surrounding environment however. The architecture design is therefore acceptable in my opinion subject to some colour refinements.

7.2. Elevated Water Table

- 7.2.1. The on-site wastewater assessments were undertaken in the Summer of 2022 and water tables levels were identified from -2.1 meters below ground level for sites no. 2 and 3, -2.2 meters below ground level for site no. 4 and -2.5 meters below ground level for site 1.
- 7.2.2. Mottling of the substrate was identified in the range of -0.6 meters to -0.8 meters below ground level across the 4 no. sites which indicates a water table level in that range.
- 7.2.3. The prevailing level of mottling identified at -0.6 to -0.8 meters below ground level is not conclusive however that water table levels do not exceed this level on an occasional basis.
- 7.2.4. The photographic evidence provided for the trial holes dated 3rd November 2022 illustrates water in the holes on or about ground surface level. While there is the potential for ground / surface water interaction in prevalent rainfall when trial holes remain open, the potential threat to groundwater contamination and public health is considered to be very likely.
- 7.2.5. The groundwater vulnerability classification for the subject site is High and the site overlies a locally important aquifer (LI) as noted from the Geological Survey of Ireland (GSI) groundwater protection scheme mapping system. The EPA Code of Practice for Domestic Wastewater Treatment Systems (2021) outlines the

importance of the aquifer classification in the relevant area and its interaction with the vulnerability of groundwater.

- 7.2.6. While there are variations in the reporting of the depths of the water table / groundwater from the various reports and submissions in the appeal documents which can be explained by variances in climatic conditions, under the precautionary principle it is my opinion that the proposed domestic wastewater treatment systems do pose a risk to public health and refusal is recommended.

7.3. Multiplicity of Private Waste Water Treatment Plants

- 7.3.1. The proposed development would result in a cluster of 12 residential units being constructed within a linear range of c. 440 meters running north-south in direction.
- 7.3.2. Due to the prevailing ground conditions it is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by domestic waste water treatment systems in an area which is classified as “High” for groundwater vulnerability status and where some existing houses derive their water supply from private borewells. The proposed development, would, therefore, be prejudicial to public health and therefore refusal is recommended.

7.4. Other Issues

7.5. Appropriate Assessment Screening

Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of the receiving environment and the distance from any European site/the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an AA at an initial stage.

8.0 Recommendation

- 8.1. Having regard to the foregoing I recommend that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

- 1) It is considered that the site is not suitable for the disposal of domestic wastewater effluent due to the high-water table, as indicated by a trial holes dug on the site. The proposed development would, therefore, be prejudicial to public health.
- 2) It is considered that, taken in conjunction with existing development in the vicinity, the proposed development would result in an excessive concentration of development served by septic tanks in the area. The proposed development, would, therefore, be prejudicial to public health.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Terry O' Leary
Planning Inspector

10th November 2023