



An
Bord
Pleanála

Inspector's Addendum Report

ABP-321442-24A

Development	Construction of dwelling with wastewater treatment system and all associated site works.
Location	Rathroal, Knockbridge, Dundalk, Co. Louth
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	24162
Applicant(s)	Paul Prendergast and Rachel Kindlon
Type of Application	Planning Permission
Planning Authority Decision	Refuse Planning Permission
Type of Appeal	First Party
Appellant(s)	Paul Prendergast and Rachel Kindlon
Observer(s)	None
Date of Site Inspection	20 th February 2025
Inspector	Dan Aspell

1.0 Introduction

- 1.1.1. This report is an addendum to the Inspector's report in respect of ABP-321442-24 dated 22nd April 2025, and is to be read in conjunction with that report and Board Direction BD-321442-24 dated 24th April 2025.
- 1.1.2. Following a meeting of the Board held 24th April 2025, the Board deferred further consideration of the case and issued a notice to the appellant under Section 132 of the Planning & Development Act 2000, as amended, for information as follows:
- *1. Detail (including relevant consent as appropriate) confirming the ability of the applicants to implement surfacing works on the laneway alongside the application site.*
 - *2. Detail including drawing and landscape details showing the extent of surfacing works along the adjoining laneway, vehicular access and associated alterations to the existing hedgerow/tress [sic. trees] /landscape at the boundary of the application site with the adjoining laneway.*
 - *3. Detail confirming the source of water supply to the proposed dwelling (mains supply or well), and the location of wells and wastewater treatment systems in the immediate vicinity of the application site.*
 - *4. Provision of a ground water risk assessment including (a) a description of the existing chemical and microbiological composition of the ground water at the application site. An untreated sample must be taken within 150m of the proposed percolation area (ensure parameters total and faecal coliforms are included) and (b) an assessment of the impacts of the wastewater discharge on the chemical and microbiological quality of the groundwater. Confirm that the sample was untreated.*
- 1.1.3. This report considers the Section 132 response from the appellant.

2.0 Response of Relevant Parties/Observers to the Board's Decision to Request Further Information

- 2.1.1. A response on behalf of the first-party appellant was received by the Commission on 30th June 2025. Section 131 of the Planning & Development Act 2000, as amended,

has not been invoked in relation to the response. I note that no Observations or other appeals were received by the Board/Commission in relation to the case.

3.0 Applicant Submission

3.1.1. The first-party appellant response comprises the following:

- Response Letter from appellant's planning consultant;
- Ground Water Risk Assessment report;
- Proposed Site Layout & Landscape Plan.

I summarise the submitted documents below.

3.1.2. The response letter makes the following points:

- The submitted revised site layout and landscaping plan show the extent of existing surfacing works on the laneway adjacent the site, and the extent to which the appellant is planning to extend the surfacing work on the laneway. The existing surfacing works were carried out by the Council. The appellant agrees to extend the surfacing of the laneway with the same specification. The appellant discussed the extension of the surfacing works with the neighbour opposite the site (Clerkins). Those neighbours are happy for the appellant to proceed along with the appellant's family (Prendergasts) as owners of the subject lands;
- The extent of surfacing works is shown on the revised drawings submitted, which is approximately a 30m extension of the existing surfacing. The lane then returns to an 'unsurfaced' laneway;
- Vehicular access into the site is to be provided by a 4.5m wide bellmouth entrance and 75m sightlines are shown on the submitted drawings. The sightlines can be achieved with the removal of approx. 10m of existing hedgerow and the cutting back of hedges either side of the proposed entrance. If required, the appellant is happy to reinstate the hedgerow along the laneway 1.5m back from the existing location. The letter states the landscaping plan shows the appellant is providing 136m of new hedgerow on the south and west boundaries;
- The appellant proposes to connect to the existing watermain on the laneway, which the letter states serves all houses on the laneway. The letter states that

well and wastewater treatment locations are shown on the submitted drawing and are referred to in the groundwater risk assessment;

- A groundwater risk assessment is submitted and the letter confirms water samples taken for testing were untreated.

3.1.3. The submitted Ground Water Risk Assessment makes the following points:

- Groundwater in the area flows to the south towards the River Fane;
- A water sample was taken 09/06/25 from a well to the north of the site and was scientifically analysed. Results are set out. Total coliforms, E. Coli and Enterococci were absent which indicates groundwater is not subject to material microbial contamination. Overall results indicate existing microbial and physio-chemical quality of the water is very good;
- Geological data for the area is set out. The site is in an area of high groundwater vulnerability and within a poor aquifer. The site is not within a source protection zone. Proximity to boreholes and abstraction points are set out;
- The development requires a 'R1' groundwater protection response. Despite this a 'R2²' response is proposed. Trial hole details are set out. Details of the proposed secondary treatment system are set out. Minimum unsaturated subsoil depth of 1.55m can be achieved which exceeds the 1.2m minimum required for the R2² source protection response;
- Performance details for the WWTS and expected impacts on the microbial and chemical quality of groundwater are set out. Details of compliance with EPA guidance are set out. Report states the proposal fully complies with EPA guidance on the authorisation of discharge to groundwater.

4.0 Planning Authority Response

4.1.1. None.

5.0 Further Submissions

5.1.1. None.

6.0 Assessment

- 6.1.1. As stated above, the appellant was requested to provide details in relation to works to the laneway alongside the site; details of works to the boundary hedgerow; details of the intended water supply and location of wells and wastewater treatment systems in the vicinity; and a groundwater risk assessment. My assessment in this report is restricted to the Board Direction and submission received from the applicant. I have had due regard to the provisions of the Louth County Development Plan 2021-2027. Since my previous report there have been no changes to the Development Plan relevant to the case. I consider below the applicant response in the context of the specific points raised in the Board request, as follows:

1. Detail (including relevant consent as appropriate) confirming the ability of the applicants to implement surfacing works on the laneway alongside the application site.

- 6.1.2. I note the information submitted by the appellant. My understanding of Point 1 of the Board Direction was for the appellant to confirm their *legal* ability to implement surfacing works on the laneway alongside the site. The Direction stated for the inclusion of relevant consent as appropriate. Whilst the appellant response sets out their intentions in this regard, it does not comment as to their legal ability to undertake such works. The response similarly does not reference any consent, or whether any consent is required. As such, the appellant has not submitted the information which I consider was intended by the Board.
- 6.1.3. Regarding the appellant's legal ability to implement surfacing works on the laneway alongside the site, I note the stated intentions of the applicant in response to the Board Direction. The works indicated in the response to the Direction are outside the application red line area. No blue line area is indicated by the appellant. The site is stated as belonging to the applicant's mother. No clarification as to whether the lane is taken in charge is provided, however I note the appellant's point that previous works to the lane were carried out by the Planning Authority, and I also note the Planning Authority queries in relation to the applicant's rights to access the lane. No submissions in this regard were made to the Planning Authority or Board/Commission. In summary I do not consider the appellant has demonstrated legal ability to implement surfacing works on the laneway.

- 6.1.4. In addition, no works to the laneway were proposed as part of the application or appeal either within the submitted plans and particulars or public notices. Interested parties were not made aware of, and have not had a formal opportunity to comment on, such works. Section 131 of the Planning & Development Act 2000, has not been invoked in relation to the response received.
- 6.1.5. As such, I am not satisfied there are robust grounds for the Commission to permit works to the lane, however in any event and as stated in my original report I do not consider works to the lane outside the red line / site boundary are necessary to facilitate the development as proposed at application stage.
- 6.1.6. In relation to the appellant's legal ability to access their site via the lane, whilst I do not consider the response provides further clarity as to the appellant's ownership or control of the lane, I see no evidence to the contrary which I consider would inhibit their accessing the site. The lane is publicly accessible and not gated. Approximately 7 no. dwelling are accessed from the lane. There is access from the lane to the appellant's mother's land. As stated in my original report I see nothing on the case file in this regard that I consider would inhibit the granting of planning permission for the development proposed at application stage. I am satisfied any such access issues would be civil matters and that there is no substantive planning impediment to granting permission in this specific regard. Section 34(13) of the Planning & Development Act as amended states that a person shall not be entitled solely by reason of a permission to carry out any development.
- 6.1.7. Accordingly, I am satisfied the proposed plans as per the application and appeal (Drw. 100-03 Proposed Site Layout) are reasonable and acceptable. I recommend no change to the assessment and recommendations in this regard as set out in paragraph 8.25 of my original report.

2. Detail including drawing and landscape details showing the extent of surfacing works along the adjoining laneway, vehicular access and associated alterations to the existing hedgerow/tress/landscape at the boundary of the application site with the adjoining laneway.

- 6.1.8. The revised site layout plan submitted indicates the existing section of the laneway which is surfaced, and the section of laneway the appellant now proposes to surface

(30m). The layout shown is otherwise generally as per that shown in application and appeal, including details of the vehicular access and landscaping.

- 6.1.9. Regarding alterations to existing the hedgerows, trees and landscape at the site boundary with the laneway, proposals in this regard are again indicated in the revised layout plan, and are generally as per that shown in application and appeal. As per the application and appeal documentation, the response letter states that 75m sightlines have been shown. The letter states the sightlines can be achieved with the removal of approx. 10m of existing hedgerow and the cutting back of hedges either side of the proposed entrance. The revised layout indicates approx. 8m of hedgerow would be lost. This is as per the originally submitted layout and my original report which also indicated approx. 8m. Given the proposed planting of 136m of new hedgerow, I am satisfied the extent of loss is modest and acceptable.
- 6.1.10. The response letter also states that if required the appellant is happy to reinstate the hedgerow along the laneway 1.5m back from the existing location. I do not consider this is warranted; as per my original report, given the nature of the access proposed and the nature of the lane, I am satisfied the required visibility can be maintained with normal hedgerow maintenance.
- 6.1.11. As per my original report I am satisfied the revised layout is generally compliant with Development Plan Policy Objectives ENV 38 and ENV 39 in relation to retention and protection of existing trees and hedgerows. I am satisfied the submitted information shows that the minimum necessary section of hedging would be removed to facilitate site access, and that a significant amount of new native hedging is proposed. Accordingly, I am overall satisfied the appellant has submitted the information requested, and with the nature of the revised proposals in this regard.

3. Detail confirming the source of water supply to the proposed dwelling (mains supply or well), and the location of wells and wastewater treatment systems in the immediate vicinity of the application site.

- 6.1.12. The appellant's response states their intention to connect to the existing watermain on the laneway, which the response states serves all houses on the laneway. No pre-connection enquiry or confirmation of feasibility from Irish Water is on file.
- 6.1.13. Regarding the location of wells and wastewater treatment systems in the immediate vicinity of the site, the revised site layout submitted indicates the locations of existing

wells and wastewater treatment systems in adjacent dwellings. These include a well and wastewater treatment system in the dwelling to the east; a wastewater treatment system in the dwelling to the north-east; and a well and wastewater treatment system in the dwelling to the north. There are no dwellings to the west or south.

6.1.14. Having regard to the information submitted I am satisfied the applicant has responded in full to the Board Request, and to the requirements of the Development Plan in this regard. I am further satisfied that the information and proposals provided in this regard are reasonable and acceptable.

6.1.15. ***4. Provision of a ground water risk assessment including (a) a description of the existing chemical and microbiological composition of the ground water at the application site. An untreated sample must be taken within 150m of the proposed percolation area (ensure parameters total and faecal coliforms are included) and (b) an assessment of the impacts of the wastewater discharge on the chemical and microbiological quality of the groundwater. Confirm that the sample was untreated.***

6.1.16. The response includes a ground water risk assessment. It includes a description of the chemical and microbiological composition of ground water in the area. A sample of untreated water is stated as being taken, the location of which is shown as approximately 140m from the proposed percolation area. Chemical and microbiological assessment of same was undertaken and results are provided. Results for total coliforms are included, as well as E. Coli and Enterococci in relation to faecal coliforms. An assessment of impacts of the proposed wastewater discharge on the chemical and microbiological quality of groundwater in the area is provided. I consider the response satisfies the requirements of the Direction in this regard.

6.1.17. Assessment details are provide. Regarding microbiological and chemical composition, the report states test results indicate the existing microbiological and physio-chemical quality of groundwater in the area is very good. A certificate of analysis is provide.

6.1.18. Regarding risk, the report states the site is within a poor aquifer area and an area of high ground water vulnerability. It notes the distances to public boreholes and abstraction points. The report notes this requires a standard 'R1' response as per Table E1 of the EPA Code of Practice 2021, however given what it states as the

relatively high concentration of on-site wastewater treatment plants in the area and the proximity of the site to the nearest abstraction point, the report states that a 'R2' response would be appropriate. The report indicates the minimum depth (1.2m) required, and states that this can be achieved on the site where a depth below the percolation trench (1.55m) can be achieved for the proposed secondary treatment system. The applicant confirms the proposed development is to connect to the public mains supply in the lane. The location of all wells and wastewater treatments systems of neighbouring dwellings are shown on the revised layout. I note the direction of groundwater flow indicated by the appellant and my observations on site is generally to the south away from neighbouring wells. Existing neighbouring wells are up-gradient of the site and are at minimum approx. 70m from the proposed wastewater treatment system. The closest dwelling site is approx. 55m away. The River Fane is approx. 600m to the south.

- 6.1.19. My original report considered that having regard to the previously submitted foul drainage proposals, and to errors and omissions in the submitted documentation including in relation to existing and proposed wells, the provision of appropriate foul drainage proposal were not clearly demonstrated. Having regard to the revised information submitted, I am satisfied that the proposal is acceptable in this regard, including having regard to Policy Objective IU 18 of the Development Plan.

7.0 Conclusion

- 7.1.1. I am satisfied that a response has been provided generally in accordance with the Board Direction BD-019536-25, with the exception of points made above in relation to legal ability to implement surfacing works on the laneway. Overall, I am satisfied that this resolves the recommended first reason for refusal as set out in my previous report.
- 7.1.2. The second refusal reason set out in my previous report remains outstanding.

8.0 Recommendation

- 8.1.1. I refer to the previous Inspector's Report and recommendation on this case dated 22nd April 2025. Having regard to the additional submission received, I am satisfied that the matters raised in the Board Direction (dated 24th April 2025) been

satisfactorily addressed by the appeal and Board Direction response, and that Refusal Reason No. 1 of my recommendation has been resolved.

- 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. -

Dan Aspell
Planning Inspector

29th September 2025