



An  
Bord  
Pleanála

## Inspector's Report

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<b>Development</b>	Construction dwelling, garage, entrance and wastewater system at Upper Ballycahane, Crecora, Co Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	15/238
<b>Applicant(s)</b>	Lorna Ryan
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Appellant(s)</b>	Michael McGrath
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	19 <sup>th</sup> August 2016
<b>Inspector</b>	Mary Crowley

## **1.0 SITE LOCATION AND DESCRIPTION**

- 1.1 The appeal site with a stated area of 0.54 ha is located on an elevated site to the south of Crecora in the townland of Upper Ballycahane on a local road. The road The site forms part of an agricultural field and there are no existing natural boundaries to the site. The area is characterised as rural with a significant number of one off housing and ribbon development. A set of photographs of the site and its environs taken during the course of the site inspection is attached.

## **2.0 PROPOSED DEVELOPMENT**

- 2.1 This is an application for permission to construct a dwelling house (327 sq.m) with garage (49 sq.m), new entrance, wastewater system and associated site works. Water supply is proposed from a private well. Proposed wastewater management is by means of a new treatment system on site and proposed surface water disposal is by means of a soakpit.
- 2.2 The application was accompanied by a site characterisation form, details of proposed wastewater treatment system and associated information and a letter of consent from the landowner to apply for planning permission.
- 2.3 A time extension was granted in November 2015 for three months.
- 2.4 In response a request for further information the applicant set out the following:
- (1) The applicant has resided in the area since the early 2000's, subsequent to her parents being granted planning permission for their dwelling house under planning permission ref. no. 00/2684. Letter from applicants Credit Union confirming her change of address in 2006 and also confirming that it continues to be her address today. Also enclosed a correspondence form VHI (March 2016) confirming her current address.
- (2) The applicant was previously granted planning permission for the proposed dwelling house under planning permission ref. no. 08/1720, however the dwelling house was not constructed due to the economic downturn. Drawing no. 1603-05-01 Plan of Public Road Showing Existing Large Houses in the area together with drawing illustrating photographs of 10 existing dwelling houses, where the ridge heights ranges from 7.8m to 9.58m and the total length of this road is only 1.63 miles. To reduce the visual impact of the dwelling proposed to reduce the floor to ceiling height on the ground floor from 2.85m to 2.7m and on the first floor from 2.55m to 2.45m, thereby reducing the overall height by 250mm from 8.533m to 8.283m.

### 3.0 TECHNICAL REPORTS

3.1 The **Environment Section** has no objection to the granting of planning permission subject to conditions as set out in their report.

3.2 The **Case Planner** in their first report requested the following further information:

(1) Documentary evidence to establish that the applicant qualifies to build in this area of strong urban influence. Such information should include a birth cert, school roll and utility bills which spans a minimum period of 10 years and identifies the applicants home address.

(2) Revised house design addressing concerns raised regarding visual impact.

3.3 Having considered the further information the Case Planner was satisfied that the applicant meets the housing need criteria and recommended that permission be **granted subject to conditions**. The notification of decision to grant planning permission issued by Limerick City and County Council reflects the recommendation of the Planner.

### 4.0 OBSERVATIONS / OBJECTIONS TO KERRY COUNTY COUNCIL

4.1 There is one observations / objections recorded on the planning file from Michael McGrath who lives on his family farm across the road from the appeal site. The main points of the submission relate to traffic safety, overlooking and sites for commercial gain.

### 5.0 PLANNING AUTHORITY DECISION

5.1 Limerick City and County Council issued notification of decision to **grant** planning permission subject to 15 conditions. Condition No 3 requires that the proposed house shall have a maximum ridge height of 8 metres (existing ridge c 8.2m)

### 6.0 PLANNING HISTORY

6.1 There was a previous planning application on this site that can be summarised as follows:

**Reg Ref 08/1720** – Limerick County Council granted permission to Lorna Ryan in October 2008 for the construction of a dwelling house, garage, entrance, wastewater treatment system and ancillary site works subject to 12 conditions. This decision was not appealed.

6.2 It is also evident from the appeal file that there are two further grants of planning

permission on adjoining properties to the east that have expired (Reg Ref 08/2503 and Reg Ref 08/2125 refers) with what appears to be a further site “cut out” of the landholding.

## 7.0 THE DEVELOPMENT PLAN

- 7.1 The operative plan for the area is the the **Limerick City Development Plan 2010 – 2016**. The site is located in an area designated as an “Area under Strong Urban Influence”. Section 3.9.1 – *Rural Settlement Policy* of the Limerick County Development Plan sets out the following:

***Rural areas under strong urban influence:** Part of the rural areas within commuting distance of Limerick City and Environs are experiencing pressure from the development of urban generated housing in the open countryside. Continued high levels of single rural houses in these locations would inhibit the growth of the County’s urban areas which would result in a failure to achieve the growth targets, particularly of the City and Environs.*

*The key development plan objectives in these areas seeks to facilitate the genuine housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.*

- 7.2 **Objective RS O1: Single Houses in Area under Strong Urban Influence** sets out the following:

*It is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as ‘rural areas under strong urban influence’. Such needs may be accommodated on lands within the rural area under strong urban influence, subject to the availability of a suitable site and normal proper planning and sustainable development criteria.*

*It is an objective of the Council to permit single houses in the area under strong urban influence to facilitate those with a **genuine rural housing need** in the area.*

*In order to demonstrate a genuine rural housing need, any of the following criteria should be met:*

- a) the application is being made by a long term landowner or his/her son or daughter; or*
- b) the applicant is engaged in working the family farm and the house is for that persons own use; or*

- c) *the applicant is working in essential rural activities and for this reason needs to be accommodated near their place of work; or*
- d) *the application is being made by a local rural person(s) who for family and/or work reasons wish to live in the local rural area in which they spent a substantial period of their lives (minimum 10 years).*

7.3 Policies relevant to this appeal are as follows:

**Policy RS P1** - *It is a policy of the Council to Provide for the development of sustainable rural housing in the County in accordance with the 'Sustainable Rural Housing' guidelines issued by the Department of the Environment, Heritage and Local Government.*

**Policy RS P2** - *It is a Policy of the Council to ensure that the provision of rural housing will not detract from the County's natural and built heritage, economic assets and environment and the planning authority will have regard to the relevant development plan objectives.*

**Policy RS P3** - *It is a policy of the Council to apply a presumption in favour of granting planning permissions to applicants for rural generated housing where the qualifying criteria set down in objectives RS O1 to RS O8 are met and where standards in relation to siting, design, drainage and traffic safety set down in the Plan are achieved.*

7.2 The **Sustainable Rural Housing - Guidelines for Planning Authorities 2005** states inter alia that where the '*applicant comes within the development plan definition of need*', people who have roots in or links to rural areas, and are part of and contribute to the rural community planning permission will be permitted subject to an occupancy condition, provided they meet the normal requirements in relation to matters such as road safety, proper disposal of waste water and satisfy the "*normal planning considerations relating to siting and design*".

## 8.0 GROUNDS OF APPEAL

8.1 The third party appeal has been prepared and submitted by Dennany Reidy Associates on behalf of Michael McGrath against the decision to grant planning permission. The appellant resides and runs a farm on the lands on the opposite side of the road to the proposed development. The main points of the appeal may be summarised as follows:

8.2 The proposed development and the manner in which planning permission was granted does not comply with the objectives and policies of the Limerick County Development Plan 2010-2016. This Development Plan was adopted in November, 2010 by Limerick County Council (now Limerick City and County Council).

- 8.2 **Site Location & House Design** - The proposed development is a rural “one-off house” and is intended to be a large modern dwelling with a ridge height of 8 metres (Planning condition No. 3 refers). The site is a locally elevated piece of land located off a narrow county road. The design of the house is not suitable for this location and does not comply with the Limerick County Council published Document – *Rural Design Advice for Individual Houses in the Countryside*. As this proposed development is a “single rural house” the Planning Authority should have required that the applicant include a ‘Design Statement’.
- 8.3 **Removal of Ditch & Hedgerow** - As part of the proposed development, it is intended to remove circa 46 metres of an existing ditch and mature hedgerow alongside the existing country road. The removal of the existing roadside boundary is in conflict with section 4.4 of the Department of Environment, Community and Local Government document “Sustainable Rural Housing”. This recommendation and the option of alternative sites does not appear to have been investigated by the Planning Authority.
- 8.4 **Rural Settlement Policy** - Based on the Objective RS 01 the applicant must have a “*genuine rural housing need*”. It is acknowledged that the applicant is the daughter of a long term landowner. Evidence to support the status of the landowner as a long-term landowner has not been provided. Policy RS P3 of the Limerick County Development Plan states that planning permission can be granted for rural generated housing where the qualifying criteria set down in Objectives RS 01 to RS 08 are met and where standards in relation to siting, design, drainage and traffic safety set down in the Plan are achieved. It is held that the standards in relation to siting and design have not been made as outlined in Section 3.1 and 3.2 of this document. The grant of planning permission therefore does not comply with Policy RS P3 of the Limerick County Development Plan, 2010-2016.

## 9.0 RESPONSE OF THE PLANNING AUTHORITY

- 9.1 The Planning Authority have no further observations to make.

## 10.0 FIRST PARTY RESPONSE TO THE APPEAL

- 10.1 The applicant in their first submission to the appeal request that all further correspondence could be directed to Gleeson McSweeney Architectural Consultants.
- 10.2 In their second submission prepared and submitted by Gleeson McSweeney on behalf of the applicant the applicant sets out the following::
- 10.3 The applicant applied for planning permission for a dwelling house beside her parent’s dwelling house in August 2008, however was not in a position to construct the dwelling house during the economic downturn.

- 10.4 While the site is slightly elevated, the house will only be visible for a very limited area and as such will not be obtrusive or invasive within its surrounding. The proposed dwelling house will have limited impact on the appellant's own dwelling house, as the appellant's dwelling house is located approximately 160m from the proposed dwelling house and is also elevated above the application site.
- 10.5 The application site is only marginally elevated above the applicants parents adjoining dwelling house to the east. The finished floor level of the applicants parents dwelling house is recorded at 37.73m, while a contour running near the centre of applicants proposed dwelling house indicate an existing ground level at this location of 38.75m, a difference of only 1.02m.
- 10.6 In relation to Policy RS P2 it is very apparent that the proposed dwelling house will not affect adversely the built heritage, economic assets or the environment. Reference is made to drawing no. 1603-05-01 Plan of Public Road Showing Existing Large Houses submitted at further information stage. Submitted that it can be seen from this drawing that a number of houses have been granted along the roadway in question and thus the Planning Authority is not in breach of Policy RS P2.
- 10.7 The dwelling house applied for under this planning application was previously granted planning permission in August 2008. Understood that it was for this reason that a design statement was not submitted with the initial planning application. A design statement was not looked for at further information stage.
- 10.8 It is only proposed to remove 46 metres of the roadside boundary, a distance which would be surpassed by a large number of planning permissions granted throughout the country. Planning permission would normally be granted in this circumstances, as the cut back is being provided as stated in the extract from the Department of Environment, Heritage and Local Government's document "Sustainable Rural Housing" for the purpose of providing adequate sightlines for traffic safety purposes.
- 10.9 In respect of the housing need, the applicant has completed the standard supplementary form and demonstrated a housing need. Applicant has also confirmed at further information stage that she has lived in the local area, which is an area designated in the County Development Plan as an "area under strong urban influence" since the early 2000s.
- 10.10 The proposed dwelling house is located in an area under strong urban influence, and its size and modern design is representative of a considerable amount of houses in this area. The height of the proposed dwelling house has been reduced on two occasions since the initial planning application and from that previously granted on site. It was further reduced by the Planning Authority under Condition No. 3 of the Notification of Decision to Grant to 8m, a height would not be considered obtrusive.

## **10.0 OBSERVATION**

10.1 There are no observations recorded on the appeal file.

## **13.0 ASSESSMENT**

13.1 Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key issues relating to the assessment of the appeal are:

(1) Principle / Policy Consideration

(2) Visual Impact

(3) Screening for Appropriate Assessment

(4) Other Issues (Traffic Impact, Drainage Services and Development Contributions)

## **14.0 PRINCIPLE / POLICY CONSIDERATION**

14.1 This is an application for single one off house and treatment system in a rural area of Co Limerick. The site is located in an area designated as an "Area under Strong Urban Influence". Section 3.9 – Rural Settlement Policy of the Limerick County Development Plan, Policy RS P1, RS P2 and RS P3 refers. In these areas it is an objective of the Development Plan to permit single houses in the area under strong urban influence to facilitate those with a genuine rural housing need in the area. In order to demonstrate a genuine rural housing need, any of the following criteria should be met:

- a) *the application is being made by a long term landowner or his/her son or daughter; or*
- b) *the applicant is engaged in working the family farm and the house is for that persons own use; or*
- c) *the applicant is working in essential rural activities and for this reason needs to be accommodated near their place of work; or*
- d) *the application is being made by a local rural person(s) who for family and/or work reasons wish to live in the local rural area in which they spent a substantial period of their lives (minimum 10 years).*

14.2 The applicant states that they have resided in the area since the early 2000's, subsequent to her parents being granted planning permission for their dwelling house under planning permission ref. no. 00/2684. There is a letter from applicants Credit Union confirming her change of address in 2006 and also confirming that it



continues to be her address today. There is also enclosed a correspondence from VHI (March 2016) confirming her current address. However it is my view that correspondence from VHI confirming multi trip cover is not the equivalent of a utility bill. In respect of the housing need, it is noted that the applicant has completed the standard supplementary form setting out that the landowner is the applicants father and the applicant is currently living with her parents and wants to build her own house (previously permitted permission that expired). Reference is also made in this form to "birth 2000" which is a little confusing. However I am not satisfied that they have not provided any in depth information setting out a genuine housing need at this location such where they work, copy of school roll, utility bills etc etc. Overall I consider that there is insufficient supporting detail to corroborate the applicants claim as to genuine links to the area has been provided with the application and appeal response. As such the applicant cannot be seen to comply with the settlement location policy for the area.

- 14.3 On the basis of the available information, I am not satisfied that the applicant has demonstrated and intrinsic links to the area or that they satisfy the relevant eligibility criteria set out in Development Plan. Refusal is recommended.

## **15.0 VISUAL IMPACT**

- 15.1 The proposed development consists of the construction of a large 'one-off' house, new entrance, new front boundary, new wastewater treatment system and ancillary site works on a locally elevated rural site at Ballycahane, Croom, County Limerick.
- 15.2 Having regard to the location of the proposed development the proposed house will have a serious visual impact on the wider rural landscape. The massing, height and scale of the proposed development on this elevated and exposed site is not sensitive to the particular landscape in which it is set, and demonstrates limited understanding of its rural elevated context.
- 15.3 As set out previously the site is located within 'Stronger Rural Areas under Significant Urban Influence' as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion. Having regard to the topography of the site, the elevated positioning of the proposed development, together with its depth and scale, the resulting extensive driveway and the removal of the front boundary and hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape. Refusal is recommended.

## **16.0 SCREENING FOR APPROPRIATE ASSESSMENT**

- 16.1 The site is within 15m of the Tory Hill SAC - Site Code 000439. To date generic conservation objectives apply, namely to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance to favourable conservation status of those habitats and species at a national level.
- 16.2 The proposal would not have a direct impact on the designated site. In terms of indirect effects there is a stream to the east of the site and outwith the site boundaries of the site that flows into Lough Nagirra and, as such, there is no direct hydrological connection between the site and the SAC. Effluent disposal is by means of septic tank and percolation area and as evidenced both by the tests carried out on behalf of the applicant the results of which are submitted in support of the application and subsequently by the PA the site is deemed suitable for such.
- 16.3 Taking into consideration the relatively small scale nature of the development as proposed, the absence of any direct pathway via a watercourse and the relative separation between the sites, it is reasonable to conclude on the basis of the information available, which I consider adequate in order to issue a screening determination, that the proposed development, individually and in combination with other plans or projects would not be likely to have a significant effect on any European site and in particular specific site number 000439 in view of the site's conservation objectives. An appropriate assessment (and submission of a NIS) is not therefore required.

## **17.0 OTHER ISSUES (DEVELOPMENT CONTRIBUTIONS)**

- 17.1 **Traffic Impact** - The proposed development site will be accessed via a new entrance arrangement onto an adjacent public roadway. This road also serves numerous one off houses and agricultural lands. I am satisfied that the proposed development will not give rise to a traffic hazard. Given the nature of the scheme proposed and the location of the appeal site I am satisfied that the vehicular movements generated by the proposed development would not have a significant material impact on the current carrying capacity of the road network in the vicinity of the site or conflict with traffic movements in the immediate area. Accordingly I am satisfied that the proposed development will not result in the creation of a traffic hazard.
- 17.2 **Drainage Services** - The development will be served by a private well and a packaged wastewater treatment system and polishing filter. I have noted the contents of the Site Characterisation Report and details of proposed wastewater treatment system submitted the application. The proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines. On the basis of the information available on file, it

would appear that the subject site is suitable for the installation of the packaged wastewater treatment system and polishing filter as proposed subject to conditions.

- 17.3 **Development Contributions** – Limerick City and County Council has adopted a Development Contribution scheme under **Section 48** of the Planning and Development Act 2000 (as amended) in September 2013. Section 1.5 sets out the categories of development which will be exempted from the requirement to pay a development contribution under the scheme. The proposed development does not fall under the exemptions listed in the scheme and it is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

## 18.0 CONCLUSION AND RECOMMENDATION

- 18.1 Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

## 19.0 REASONS AND CONSIDERATIONS

1. Having regard to the location of the site within an Area Under Strong Urban Influence as identified in Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April 2005 and in an area where housing is restricted to persons demonstrating local need in accordance with the current Limerick City and County Development Plan, it is considered that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines or the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. The site of the proposed development is located within 'Stronger Rural Areas under Significant Urban Influence' as set out in the current Development Plan for the area, where emphasis is placed on the importance of designing with the landscape and of siting of development to minimise visual intrusion as set out in the current Limerick City and County Council Rural House Design Guidelines, which Guidelines are considered to be reasonable. Having regard to the topography of the site, the elevated positioning of the proposed

development, together with its depth and scale, the resulting extensive driveway and the removal of the front boundary and hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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**Mary Crowley,**  
**Senior Planning Inspector**  
**24<sup>th</sup> August 2016**

*Report Ends MC*