



An  
Bord  
Pleanála

## Inspector's Report PL91.247302.

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<b>Development</b>	House, treatment system and site entrance.
<b>Location</b>	Gardenhill, Castleconnell, Co. Limerick.
<b>Planning Authority</b>	Limerick City and County Council.
<b>Planning Authority Reg. Ref.</b>	16/601.
<b>Applicant</b>	Feargus Ahern.
<b>Type of Application</b>	Outline.
<b>Planning Authority Decision</b>	Refuse outline permission.
<b>Type of Appeal</b>	First Party versus decision
<b>Appellant</b>	Feargus Ahern.
<b>Observer(s)</b>	None.
<b>Date of Site Inspection</b>	1 December 2016.
<b>Inspector</b>	Stephen Rhys Thomas.

## **1.0 Site Location and Description**

- 1.1. The appeal site is located about two kilometres south east of Castleconnell Village and approximately 16 kilometres north east of Limerick City centre. The site is located towards the end point of a short cull-de-sac country road. There are a small number of dwellings along the road. The road is narrow and bound by high hedging and mature trees on either side. There are a number of driveways and field entrances along its length.
- 1.2. The appeal site is an elongated rectangular field which rises slightly above the road and has an undulating form throughout. The appeal site is at present an agricultural field in grass. The field boundaries comprise mature hedgerow planting with a line of trees at the north western end, the other side of which is a small field in the ownership of the father of the applicant. The roadside boundary comprises a post and rail fence with a wide grass margin.
- 1.3. The wider landscape area is characterised by large open fields mainly in grass, with mature hedgerows and stands of trees. There are groups of one and two houses together along with farmyards with sheds and other out buildings. On the whole the character of the laneway is rural with limited amounts of housing.

## **2.0 Proposed Development**

- 2.1. The applicant has applied for outline planning permission to construct a dwelling and service it with a domestic wastewater treatment system on a site which amounts to 1.395 Hectares.
- 2.2. The application is accompanied by a Site Characterisation Form, completed by Janet Costello B. Env. Sc.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

The planning authority decided to refuse permission for a single reason, summarised below:

- The road network serving the proposed development has insufficient capacity to accommodate the additional traffic likely to result. The proposed development would be contrary to Objective IN 09: Substandard Roads as set out in the Limerick County Development Plan.

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

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

The Planner's report is summarised as follows:

- A recent refusal of permission for the same applicant is detailed and local housing need issues which would could support the current application remain outstanding. Permission refused based upon the configuration of the access road.
- A Habitats Directive Screening Assessment was completed, no impact upon any SAC or SPA was concluded.

#### 3.2.2. **Other Technical Reports**

None.

### 3.3. **Prescribed Bodies**

Irish Water Report. Recommends the attachment of standard conditions with regard to connection to services.

### 3.4. **Third Party Observations**

Concern expressed about the impact that the proposed development would have on the capacity of the existing access road. The proposal will result in excessive development for the area.

## 4.0 **Planning History**

Subject Site:

**Planning authority register reference 15/1044**, outline planning permission refused April 2016 for the construction of a dwelling with effluent treatment system,

for reasons connected with the insufficient capacity of the road network to support a dwelling.

## 5.0 Policy Context

### 5.1. Development Plan

### 5.2. Limerick County Development Plan 2010-2016

The appeal site is located in an Agriculturally zoned area and as such dwellings are not permitted except where compliance can be demonstrated in accordance with rural housing policies. The site is also located in an area under strong urban influence.

#### 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.

#### Objective RS O1: Single Houses in Area under Strong Urban Influence

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).

The County Development Plan defines 'Local Rural Person' as follows:

The Council recognizes the needs of local rural people who wish to live or work in the area in which they grew up. The following 3 criteria arise in assessing applicants under this category:

1. The applicant must come within the definition of a 'Local Rural Person'

and

2. The proposed site must be situated within their 'Local Rural Area'

and

3. The applicant must have a 'Local Rural Housing Need'

a) A 'Local Rural Person' is a person who is living or has lived in the local rural area for a minimum of 10 years prior to making the planning application. This includes returning emigrants seeking a permanent home in their local rural area.

b) The 'Local Rural Area' for the purpose of this policy is defined as the area generally, but not exclusively, within a 10km radius of the applicant's family home. Where the applicant is located less than 10km from the County boundary the land mass available will be 314km<sup>2</sup>. Where the proposed site is of a greater distance but

the applicant can demonstrate strong ties with the area of the proposed site, e.g. strong family, landownership, or employment links or being within the same parish as the applicant is from, then these cases and other exceptional circumstances will each be considered on their individual merits.

d) An applicant who satisfies a 'Local Rural Housing Need' is defined as a person who does not or has never owned a house in the 'local rural area' and has the need for a permanent dwelling for their own use in the rural area.

#### Objective IN O9: Substandard roads

It is an objective of the Council to ensure that on roads that are substandard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development will only be considered in exceptional circumstances. A presumption in favour of family members and long term landowners will be considered in exceptional circumstances, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the County Development Plan.

Section 3.9.3 'Long Term Landowner' is defined as a person who has owned a minimum of 10 hectares of land in the rural area for a minimum period of 15 consecutive years.

Rural Design Advice for Individual Houses in the Countryside Limerick County Council 2012

### 5.3. **Natural Heritage Designations**

The Lower River Shannon SAC (site code 002165) is located approximately 850 metres to the south east of the appeal site.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

A first party appeal has been lodged against Limerick City and County Council's notification of decision to refuse permission. The main grounds of appeal can be summarised as follows:

- The applicant is a person with genuine housing need and qualifies under category d) an application made by a local person who wishes to live in a local rural area in which they have spent a minimum of 10 years. The applicant has lived with his parents nearby, 2.3km away at Castleconnell.
- The applicant has supporting material to substantiate his local affiliations: birth certificate, a letter from the principal of Lisnagry National School and a letter from the local GAA club.
- The county road to the site is similar to many other minor rural roads. Recent improvements at the junction of Gardenhill Road with the L1110 have made turning movements safer. In addition, since the completion of the nearby M7, traffic volumes along the R445 (formerly the N7) have reduced.
- The access road is not a substandard road, there are numerous informal pull-in places at the entrances to 8 houses and for the most part the road is 3 metres in width.
- The site is suitable for the purposes of a domestic wastewater treatment system and in overall terms the addition of this dwelling will 'read' as a rural cluster of housing.

### 6.2. Planning Authority Response

None.

### 6.3. Observations

An observation was invited from Mr Mc Gill, a local resident and who made an observation on the planning application, the observation can be summarised as follows:

- Given the capacity of the existing road serving the site, the proposed development may not be adequately accommodated.
- The proposed development is excessive and contrary to the proper sustainable planning of the area.

## 7.0 Assessment

7.1. The key issues can be dealt with under the following headings:

- Housing Need
- Road Configuration
- Wastewater Treatment
- Visual Impact
- Appropriate Assessment

### 7.2. Housing Need

7.2.1. The applicant asserts that they qualify for housing at this location and has submitted material to substantiate this, a letter from Ahane GAA Club stating membership since 1994. The applicant states that they have a genuine rural need to live at this location and they have spent a substantive period of their life in the area, 29 years in Castleconnell 2.3 kilometres away.

7.2.2. Chapter 3 of the Limerick County Development Plan sets out the settlement strategy for the county which is intended to provide a planning framework for the location of development and population over the Plan period and beyond. This strategy takes the form of two parts. A County Settlement Strategy that builds upon a hierarchy of settlements, from large urban centres to smaller rural villages. A Rural Settlement



Strategy that outlines policies dealing with residential development in rural areas in accordance with “Sustainable Rural Housing, Guidelines for Planning Authorities”.

- 7.2.3. Following a review of the available information, it is apparent that in its assessment of the subject application the Planning Authority has applied the provisions of its rural settlement strategy as set out in the Development Plan. In this respect I would advise the Board that in accordance with the provisions of the ‘Sustainable Rural Housing, Guidelines for Planning Authorities’ the Limerick County Development Plan, 2010-2016 includes a detailed identification of the various rural area types specific to the county at a local scale and that ‘Map 3.2: Rural Settlement Strategy’ of the Plan confirms that the subject site is located within an ‘Area under Strong Urban Influence’. Within these areas the Planning Authority has adopted a restrictive approach as regards the eligibility of prospective applicants for rural housing and in this respect I would refer the Board to Objective RS O1 of the County Development Plan which states that it is an objective of the Council to recognise the individual housing needs of people intrinsic to those ‘rural areas under strong urban influence’ and to permit single houses in such areas in order to facilitate those with a genuine rural housing need.
- 7.2.4. Accordingly, in order to demonstrate a genuine rural housing need in line with Objective RS O1 an applicant is required to meet one of the following criteria: 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). In this instance the applicant qualifies as a ‘Local Rural Person’.
- 7.2.5. It is also of relevance to note that the ‘Sustainable Rural Housing, Guidelines for Planning Authorities’ published by the Department of the Environment, Heritage and Local Government in 2005 facilitates rural-generated housing for persons who are an intrinsic part of the rural community and state the following:

*‘Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would*

*include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence. Returning emigrants who lived for substantial parts of their lives in rural areas, then moved abroad and who now wish to return to reside near other family members, to work locally, to care for elderly family members, or to retire should also be accommodated.'*

- 7.2.6. The only documentary evidence on the appeal file is the letter from Ahane GAA Club and the contents of the planning application form and supplementary form. There are pre-planning notes which outline that the applicant must address previous issues which were outstanding in the previous application which was refused for a similar reason (planning register reference number 15/1044). In terms of rural housing policy and the applicant's eligibility for the construction of a dwelling the only new information to hand is the contents of the grounds of appeal.
- 7.2.7. The applicant rightly identifies that the site is located in an area defined as 'area under strong urban influence'. The County Development Plan states that in order for permission to be granted in such areas an applicant must demonstrate a 'genuine rural housing need'. I note that the grounds of appeal state the inclusion of a birth cert and a letter from the local national school. I have not seen these documents. However, having reviewed the available information, it would appear that the applicant most likely satisfies the eligibility requirements set out in part (d) of Objective RS O1 in that he has resided in the local rural area for more than 10 years. The applicants current housing circumstances are that he resides with his parents at the edge of Castleconnell village. Accordingly, the applicant would seem to comply with the definition of a 'Local Rural Person', is from the 'Local Rural Area' and appears to have a 'Local Rural Housing Need' as set out in the County Development Plan. These three factors combine to enable the applicant to apply for permission for a dwelling subject to the availability of a suitable site and normal proper planning and sustainable development criteria.

### 7.3. Road Configuration

7.3.1. The applicant has submitted an assessment of the road which allows access to the site. The applicant states the average road width, assesses road alignment and geometry, the location of informal lay-bys and a snapshot of current traffic volumes. The assessment includes photographs and concludes that the access road is not a substandard road and therefore Objective IN 09 of the Development Plan does not apply.

7.3.2. To assess the suitability of the road in the context of Objective IN 09 of the Development Plan, it is important to understand the background to this Roads objective. Objective IN 09 underpins the broad Road Safety and Capacity policy of the Council to seek the improvement of road safety and capacity throughout the County, through minimising existing traffic hazards, preventing the creation of additional or new traffic hazards in the road network. Objective IN 09, specifically relates to substandard roads and states:

It is an objective of the Council to ensure that on roads that are substandard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development will only be considered in exceptional circumstances. A presumption in favour of family members and long term landowners will be considered in exceptional circumstances, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the County Development Plan

So, therefore, in order to prevent traffic hazard only in exceptional circumstances will permission be considered for an additional access to a new dwelling.

7.3.3. In this regard I note both the observations of the planning authority and the grounds of appeal. I question whether or not the applicant can be considered to be an exceptional circumstance and whether or not the road is substandard.

7.3.4. The applicant qualifies as a 'Local Rural Person'. However, it would appear he is not a long term landowner in this area. The report of the planning authority states that the site was purchased in 2015, though I have no documentary record of this on the appeal file. In addition, I note that the applicant is not the owner of the appeal site, nor is the landholding in excess of 10 Hectares. It is in the ownership of his father, the applicant resides at Cloon and Commons, approximately 4 kilometres to the north. I am, therefore, of the opinion that the applicant cannot provide evidence of

being a Long Term Landowner as defined by the County Development Plan and thus cannot be considered as an exceptional circumstance. No such supporting details were submitted by the applicant to demonstrate what exceptional circumstances there are other than qualifying for consideration of a rural dwelling under Objective RS O1. The grounds of appeal do not set out the amount of time that the applicant has owned the land or any alternative site for a dwelling. Though the applicant is a 'Local Rural Person', they are not an exceptional circumstance for the purpose of Objective IN 09.

- 7.3.5. Having walked and driven the road in question, it is narrow and characterised by high ditches with mature hedging and trees. There are a number of places to pull in, in the form of entrances to farmyards and houses. Like many other minor roads in the area, the road twists and turns and consequently speeds are low. It must be borne in mind that the road is a cul-de-sac and provides access to approximately 8 occupied dwellings and one or two farmyards. Traffic volumes are low. The road is moderately well surfaced and its junction with a country road that links the R445 and R503 has recently been amended with improved sight lines to the right hand side.
- 7.3.6. Based upon my observations, I would broadly agree with both the Council Planner and the applicant on road width. The road is narrow, in places marginally less than 3 metres in width, however, at other locations it is marginally wider. Without a precise and complete survey of the entire length of the road and its surface width, not including grass verges, a definitive conclusion cannot be reached, other than it is a narrow road. The alignment is curvilinear, like many other minor country roads in the area. The surface condition is generally good with some minor deterioration in places, but not to a significant degree. The junction with the nearest main road has been improved and sight lines to the right when exiting the laneway are good. I note that there are no recently constructed dwellings along its length. The existing housing stock dates from the 1900s or from between the 1970s and early 1990s.
- 7.3.7. In my opinion the road is substandard in terms of alignment. The road would require investment and improvements to be made to accommodate future developments along its length. Given that the road is substandard and that there is doubt as to whether or not the applicant is a long term landowner, the applicant cannot be considered to have an exceptional circumstance in order to qualify under Objective

IN 09. Given the lack of good evidence to demonstrate exceptional circumstances I recommend permission should be refused.

#### **7.4. Wastewater Treatment**

- 7.4.1. The applicant submitted a Site Characterisation Form for a wastewater treatment system, prepared by Janet Costello B. Env. Sc. The report recommends that a septic tank and percolation area with discharge to groundwater is acceptable. The average  $T_{100}$  value was 13.33 which required the implementation of the standard method to derive a T value, in this case 4.28 (min/25mm). The resultant T value of 4.28, given soil/subsoil conditions, indicates that a conventional septic tank system and indirect discharge to groundwater is acceptable. Having reviewed the material submitted by the applicant with regard to domestic wastewater, I recommend that installation of the system should accord with Code of Practice: Wastewater Treatment Systems for Single Houses 2010, prepared by the Environmental Protection Agency.

#### **7.5. Visual Impact**

- 7.5.1. The appeal site is located towards the end of a cul-de-sac rural road. The area is characterised by gently undulating land with mature hedges and trees. The appeal site is large and the selected location for the dwelling is on top of a highpoint within the site. This would be a very prominent location for the immediate area if a two storey dwelling were permitted, though views of the site from further afield are not relevant. Given the secluded nature of the site in the context of the wider landscape, there would be no visual impact of any significance. From a site suitability perspective, a single storey dwelling may be appropriate at this location. This would ensure that the visual amenities of neighbouring dwellings would not be impacted upon.

#### **7.6. Appropriate Assessment**

- 7.6.1. The Lower River Shannon SAC (site code 002165) is located approximately 850 metres to the south east of the appeal site and separated by the R503 regional road. There are open land drains across a road and approximately 250 metres east of the site and a dry ditch running along the north eastern boundary of the site. The planning authority carried out a screening and concluded that that a stage 2 Appropriate Assessment would not be required.

7.6.2. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and suitable soil conditions as evidenced by the outcome of the wastewater treatment system assessment, and the distance to the nearest European Site (circa 850 metres to the Lower River Shannon SAC), no appropriate assessment issues arise and I consider that the proposed development would not be likely to have a significant effect individually or in combination with other plans or project on a European site.

## **8.0 Recommendation**

8.1. In view of the above it is recommended that outline permission should be refused based on the following reasons and considerations:

## **9.0 Reasons and Considerations**

1. It is an objective of the Limerick County Development Plan 2010-2016 that development on substandard roads will only be considered in exceptional circumstances. The local road from which access is gained to the site is seriously substandard in terms of alignment and the applicant has not satisfactorily demonstrated an exceptional circumstance. The traffic generated by the proposed development would endanger public safety by reason of traffic hazard and obstruction of road users. The proposed development would therefore contravene an objective indicated in the County Development Plan and be contrary to the proper planning and sustainable development of the area

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Stephen Rhys Thomas  
Planning Inspector

16 December 2016