



An
Bord
Pleanála

Inspector's Report PL91.247739

Development	Dwelling house, garage and detached shed
Location	Five Cross Road, Farnane, Murroe, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	16/640
Applicant(s)	Patricia Ingle
Type of Application	Permission.
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Breda Hayes
Observer(s)	Alice Hayes
Date of Site Inspection	1 st March 2017
Inspector	Mary Crowley

1.0 Site Location and Description

The appeal site with a stated area of 1.13 ha comprises part of an agricultural field located to the south of Murroe Village. The land gently slopes from east to west. The field boundaries in the locality are composed of hedges and hedge banks. There are no footpaths or public lighting in the area. While there are houses on the opposite side of the road closer to the junction to the north there are no houses directly opposite the site.

- 1.1. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. This is an application (12th July 2016) for the construction of a new dwelling (643.96 sqm), detached garage, detached shed, a treatment system, a domestic entrance and all associated site works. The application was accompanied by a Site Suitability Assessment form.
- 2.2. The applicant submitted unsolicited further information (date stamp 5th September 2016) in response to the observation on the planning file the contents of which may be summarised as follows:
 - The applicant demonstrates qualification due to her exceptional circumstances and unfortunately the planning policies do not appear to support the applicant's situation. Brief letters from medical professional have been included in the application.
 - The scheme is a well-designed property specifically designed to be set back from the road and is almost 100 m away from any dwelling. The design seeks to mitigate concerns on visual impact through breaking down the mass of the structure and using natural materials.
 - The site is contracted to be in the applicant's ownership on receipt of a grant of permission.
 - The proposed development does not constitute ribbon development.

- The submission was accompanied by a further site assessment report pertaining to the percolation test results
- 2.3. In response to a request for further information the applicant submitted the following (27th October 2016) as summarised
- Documentation and letter from Tim McKenna (owner of the site) in relation to legal ownership and consent to apply for permission
 - Amended drawings setting back the roadside boundary, relocating the entrance further north, surface water drainage and relocation of the existing road signage.

3.0 Planning Authority Decision

- 3.1. Limerick City & County Council **granted permission** subject to 16 generally standard conditions. The conditions may be summarised as follows:

Condition No 1 – Compliance with plans and details submitted on 15th July 2016 as amended by further particulars as submitted 5th September 2016 and 27th October 2016.

Condition No 2 – Section 48 Development Contribution

Condition No 3 – No sound trees or hedgerows to be removed

Condition No 4 – House shall be occupied by the applicant for a period of 7 years

Condition No 5 – New road side boundary details

Condition No 6 – No lighting at roadside entrance or piers

Condition No 7 – Roadside utility poles shall be removed

Condition No 8 – Roadside surface water run-off

Condition No 9 – Roofs, entrances and parking area surface water run-off

Condition No 10 – Waste water treatment plant and polishing filter system

Condition No 11 – Finished floor levels

Condition No 12 – External walls shall be plaster / dash

Condition No 13 – Roof finish

Condition No 14 – Public service cables shall be underground

Condition No 15 – Existing boundary planting shall be retained

Condition No 16 – Garage use and finish

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Local Authority Planner in their first report requested further information in relation to legal interest and traffic safety. The Local Authority Planner in their second report and having considered the further information submitted recommended that planning permission be **granted** subject to conditions. The notification of decision to grant planning permission issued by Limerick City and County Council reflects this recommendation.

3.2.3. Other Technical Reports

3.2.4. The **Area Roads Report** (2nd September 2016) had no objection to the scheme subject to the following amendments:

- The hedge growth over the full front of the property bounding the road should be set back a minimum of 3 metres from the road edge so as not to impeded sightlines
- The proposed entrance should be relocated north of the proposed location due to the curvature of the road in this direction
- Any surface water that runs off the road into the site in question will have to be catered for by this property / site
- There may be a requirement to relocate existing road signage, agreement will be required from Limerick City & County Council regarding their relocation

3.2.5. Noted that these items formed part of the Planning Authority's request for further information.

3.2.6. The **Environment Section** in their report of 5th September 2016 had no stated objection to the development subject to conditions relating to the installation of the onsite treatment system and polishing filter.

3.3. Prescribed Bodies

3.3.1. **Irish Water** has no stated objection.

3.4. Third Party Observations

3.4.1. There is one observation on the planning file from Breda Hayes (also the appellant in this appeal). The issues raised relate to previous refusals on the site, legal interest, urban sprawl, visual impact and traffic.

4.0 Planning History

4.1. There were two previous appeal on this site that may be summarised as follows:

PL13.112232 (Reg Ref 98/1703) – As a consequence of a third-party appeal An Bord Pleanála refused outline planning permission for the erection of 2 houses on land to the north of the appeal site for the following reasons:-

- 1. The proposed development is located in a rural area lacking certain public services and community facilities and is in an area which has been designated as a pressure area in the current Limerick County Development Plan. It is the policy of the planning authority to restrict residential development in such areas and to direct residential development to serviced centres. This policy is considered reasonable. The proposed development would contribute to ribbon development in the area, would lead to demands for the uneconomic provision of further public services and community facilities, and would, therefore, be contrary to the proper planning and development of the area.*
- 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.*

PL13.122963 (Reg Ref 00/1444) – Limerick County Council refused planning permission for a 2-storey house, entrance, waste water treatment plant, percolation area and all ancillary works. The Board refused permission for the following reasons:

1. *The proposed development is located in a rural area lacking certain public services and community facilities which has been designated as a pressure area in the current Limerick County Development Plan. It is the policy of the planning authority to restrict residential development in such areas and to direct residential development to serviced centres. This policy is considered reasonable. The proposed development would consolidate a pattern of sporadic development in the area which would be detrimental to the rural character of the area, and would lead to demands for the uneconomic provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and development of the area.*
2. *The Board is not satisfied, on the basis of the submissions received in connection with the planning application and the appeal, that the site is capable of being drained satisfactorily, notwithstanding the proposed use of a proprietary wastewater treatment system. Furthermore, 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 and proprietary wastewater treatment plants in an area of low soil impermeability. The proposed development would, therefore, be prejudicial to public health.*
3. *Having regard to the nature of housing in the locality and the rural character of the area, the proposed dormer-style dwelling is considered to be excessive in scale and out of character. The proposed development would, therefore, be contrary to the proper planning and development of the area.*

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Limerick County Development Plan 2010 – 2016**. In September 2014, in accordance with Section 28 of the Electoral, Local Government and Planning and Development Act 2013, the Planning Authority proposed not to commence the review of the Limerick County Development Plan

2010 - 2016 and the Limerick City Development Plan 2010 - 2016. Therefore, the City and County Development Plans will continue to have effect until a new Development Plan for Limerick City and County is prepared. Section 11B requires that within 12 months of the making of regional planning guidelines that take into account the amalgamation of the administrative areas concerned, i.e. Limerick City and County Council, the preparation of a development plan for its administrative area must commence.

5.1.2. Under the provisions of the Limerick County Development Plan 2010 – 2016 the site is in an area of **Strong Urban Influence** where 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. The appeal site is also located within the development boundary for Murroe – Map A-3 refers – and is **zoned Agriculture** where this zoning is to allow uses which are directly associated with agriculture, and in some cases to reflect existing land uses. Relevant Objectives are set out below:

- Section 3.9.2 Local Rural Persons
- Objective RS 01 Single Houses in Areas under Strong Urban Influence
- Objective HOU 016 Design & Landscaping of new Rural Dwellings
- Objective EH 021 Septic Tank & Proprietary Systems

5.2. **Natural Heritage Designations**

5.3. The site is not located within a designated Natura 2000 site. The relevant European sites are the Lower River Shannon SAC (Site Code 002165) and the Slievefelim to Silvermines Mountains SAC (Site Code 004165).

6.0 **The Appeal**

6.1. **Appeal Submission**

6.1.1. The third party appeal has been prepared and submitted by Dr Breda Hogan, Glentworth Street, Limerick. The grounds of appeal may be summarised as follows:

- 6.1.2. **Planning History** - Attention is drawn to the Boards two previous decisions refusing planning permission on the same field; PL13.122963 and PL13.112232 refers. The same factors and issues which affected the previous unsuccessful applications for planning permission also affect this application. In the time period that has elapsed since these applications were made environmental criteria, health and safety requirements have become far more stringent. The current proposed development is much more extensive and excessive in scale that that previously refused.
- 6.1.3. **Public Notices** - There was failure to comply with mandatory statutory requirements in terms of providing an adequate site notice. There is only one entrance from the public road to the lands in question, namely, by a standard farm railed gate. No notice was erected on said gate at any time during the planning application process. There was a site notice erected but it was neither conspicuous nor easily visible or legible from the public road. Photos attached.
- 6.1.4. **Revised Plans** - Failure of the planning authority to notify this appellant / observer that significant new information and revised plans had been submitted. Submitted that the application upon which the planning authority made its decision was significantly different and at variance from the original submitted thereby depriving members of the public a meaningful opportunity to make submissions or observations.
- 6.1.5. **Application Form** – The incorrect information was provided in the planning application form. Particular reference is made to site history, relationship of the applicant to the owner and legal interest in the land.
- 6.1.6. **Urban Sprawl** – Reference is made to the previous reasons for refusal on the site. The proposed development contravenes the current Development Plan in several material respects including the Settlement Strategy, sustainable development, preventing urban sprawl, transport and environmental considerations. Submitted that the applicant has been living in a housing estate in the village of Murroe for 5 years having previously resided in Limerick City. The Development Plan makes specific provisions for special needs housing including that for the disabled and seeks to support the concept of independent living within the community. The appeal site due to its location would not achieve the objectives of the Development Plan in this regard.

- 6.1.7. **Waste Water** – The site has been subjected to a number of percolation tests and trial holes in the past and has failed the requisite tests. Environmental requirements have become much more stringent since these tests were conducted. There is no soakage in the area. Large areas of the site are covered by rushes. New tests were conducted after a very prolonged dry spell. The water table in this area is subject to seasonal fluctuation with very high winter water tables. The percolation tests results were unsatisfactory. Ponding and groundwater contamination resulting from the incorrect siting of a percolation area or wastewater treatment system in an area of high aquifer vulnerability are serious risks. Photos of the site attached.
- 6.1.8. **Topography** – The proposed development which is excessive in scale is located some distance back from the public road on a raised incline and is therefore particularly obtrusive in the landscape. The siting of the proposed structure overlooks the rear of adjoining residential property.
- 6.1.9. **Traffic Hazard** – The adjoining road is extremely busy and hazardous. There is no footpath in the area. The proposed development is close to a dangerous junction and there are extensive road markings and signage warning signs. There is a sharp blind bend near to the proposed development. There was at least one fatality in this area following a road traffic collision. Photos attached.
- 6.1.10. **Ownership** – The registered owners of the site are Timothy & Alice McKenna and not the applicant. There is no letter of consent from the registered owners consenting to the making of the current planning application. Further the application is silent on the remaining portion of the land and it is very significant that there is no agreement to sterilise the remaining portion of the land against further development.

6.2. **Planning Authority Response**

- 6.2.1. **Limerick City and County Council** in their submission of 16th February 2017 submitted the Environment Section Report of 5th September 2016 together with associated documents submitted with the supplementary forms. These documents include the following:
- Personal statement from the applicant setting out the medical and personal reasons why they need a new house and the difficulties with the existing house

- Letter from the applicants Physiotherapists', Nurses' Healthcare Assistants', Doctor and Occupational Therapist.

6.3. Observations

6.3.1. There is one observation on the appeal file from Alice Hayes, Farnane, Murroe, owner of the adjoining property. The planning issues raised relate to the following as summarised:

- No change to the factors giving rise to An Bord Pleanála decisions to refuse planning permission.
- Environmental requirements have become much more stringent since the previous applications were made. The site has been independently assessed on two separate occasions previously by independent public servants and deemed to have failed the requisite site requirements in relation to percolation and water table. The results obtained on a private commercial assessment funded by the applicant are unreliable having conducted in May 2016 following a very prolonged dry spell. They are not consistent with previous results.
- The proposed development would result in an unacceptable concentration of wastewater treatment systems and septic tanks in an area which has poor drainage characteristics and would be prejudicial to human health and the proper planning and development of the area.
- The extremely large structure at over 643 sqm is mis-described as a dwelling house and appears to be a hybrid between a dwelling house and a nursing home or small private hospital.
- The proposed development is excessive in scale and out of character in a rural area. The proposed development would lead to overlooking of the rear.
- Legal interest
- Failure to clearly display a legible site notice for the requisite period in a conspicuous place

- The proposed development is unsustainable, represents a material contravention of the Development Plan and flies in the face of the Development Plan Objectives.
- There have been several road traffic accidents adjacent to the proposed development site.

6.4. Applicants Response

- 6.4.1. The first party response to the appeal has been prepared and submitted by the applicant's agent, CBA Architecture Ltd. The response may be summarised as follows:
- 6.4.2. **Context** - While the applicant has not lived in the area for 10 years, her circumstances are such as to permit the Planning Authority to grant permission. Unlike the previous applicant who according to the ABP Inspector did not justify an exception being made.
- 6.4.3. **Planning History** – The sites on which the proposed developments were refused by An Bord Pleanála were different in size and configuration from the current application site.
- 6.4.4. **Background** – The applicant lived with her family in Limerick. They found that the living situation was totally unsuitable for the applicant's needs. The family moved to a house in Murroe in which they have lived for over six years but it is not adequate in the circumstances. The agents have spent approximately two years with the family looking for suitable site. In that time, they have looked at 50 to 60 sites, none of which met all the applicant's requirements. The proposed house is more than a family home. It is a place where a young woman will spend much of her time and is designed to meet her needs and her family needs.
- 6.4.5. **Proposed Development** – The proposed bungalow is set into the site in such a manner as to reduce the impact on the topography and also to accommodate easy wheelchair mobility. The mass of the proposed structure has been broken down with the use of outbuildings and car port to the front along with carrying roof levels to the dwelling itself create a cluster type development. To accommodate the applicants needs a larger than usual floor area is required.

- 6.4.6. **Ownership of the Site** – The absence of a letter of permission from the site owner with the application documents was an oversight that was subsequently corrected to the satisfaction of the planning authority.
- 6.4.7. **Site Notice** – Instructions states that the site notice shall be erected on or near the main entrance to the lands or structure concerned or on any other part of the lands or structure adjoining the public road. The gate referred to does not bound the site. Further the planners report confirms the validity of the site notice.
- 6.4.8. **Ribbon Development** – The Planners report states that “no ribbon development exists along this stretch of road as per the Sustainable Rural Housing Guidelines”. The proposed dwelling would not exacerbate ribbon development as it is not consistent with the definition of such as set out in the guidelines.
- 6.4.9. **Housing Need** – Sheltered housing as described in the Development Plan is not suited to this particular case. It is not possible to accommodate the necessary equipment and facilities in a house that is not purposes built and therefore should be acknowledged as a genuine rural housing need.
- 6.4.10. **Housing Strategy** – While the government policy, the National Housing Strategy for People with a Disability 2011-2016, supports the concept of people with a disability living independently, there is currently no provision for a situation such as the applicants, who wishes to live with her family while having an independent adult life with all of the facilities necessary to provide this.
- 6.4.11. **Waste Water Treatment** – A site assessment was carried out by a qualified surveyor / site assessor who verified the results and meteorological details relating to rainfall during the testing period. The treatment units was designed to the current standards which are higher than the standards of 2000, when the previous application was made. The rainfall records for the area indicates that this was not a dry summer, but the opposite and was indeed after the wettest winter on record.
- 6.4.12. **Traffic** – The public road is a minor road and could not be described as a busy road. The planning authority had requested that the entrance should be relocated to the north of that which was initially proposed. The sight lines were subsequently deemed to be acceptable by the authority and no further issues was raised.
- 6.4.13. **Landscape & Overlooking** – The existing hedgerow which forms a boundary to the road will be strengthened in accordance with the directions of the planning authority.

As the proposed dwelling is a bungalow there will be no overlooking of nearby properties. Further the hedges on the northern boundary can be strengthened to prevent any overlooking.

6.4.14. **Conclusion** – It is contended that this situation constitutes exceptional circumstances and that the decision by the planning authority to grant permission should be confirmed by An Bord Pleanála.

6.4.15. The submission was accompanied by the following:

- Photo of site notice
- Rainfall record
- Site layout plan Reg Ref 98/1703
- Site layout plan Reg Ref 00/1444
- Drg No 657-200 Site Location Plan (showing the above sites outlined in relation to the current application)
- Report by Michael Kelly – Site Assessment
- Letters of support from within the Murroe Community (Priests of Murroe-Boher (Parochial House), Abbot of Glenstal, Glenstal Abbey Murroe Community Council)

6.5. Further Responses

6.5.1. In a further correspondence, the appellant **Dr Breda Hayes** submitted the following additional comments as summarised:

6.5.2. The scale of dwelling house is excessive, visually intrusive and completely out of proportion to any dwelling in the vicinity. The question arises, is it one or more dwellings or is it a hybrid medical or nursing facility come dwelling house.

6.5.3. The topography and slope of the site taken in conjunction with the positioning of the “dwelling house”, the drawing and elevations submitted means that the ground level of the dwelling will be a minimum of 5 metres in height above road level. This will inevitably have serious visual impact.

- 6.5.4. The proposed structure is perpendicular to the rear of houses on the R506 Limerick Road. Due to its excessive height, it will overlook the rear of these houses leading to a complete loss of privacy and residential amenity.
- 6.5.5. A village design statement for Murroe which is a Tier 4 settlement provides at Objective M1 that “development shall be directed inside the development boundary of the town as indicated on Map A-3”. The proposed development is outside the zoning boundary.
- 6.5.6. The applicant grew up in Limerick City and is thereby excluded from the criterion of “Local Rural Person” and ineligible for planning permission in relation to the proposed development site. The applicant already has a “special house” being a very large bungalow within the village of Murroe adapted for their needs and this has been the position for the last six years.
- 6.5.7. Ownership of the site is a material matter fundamental to the validity of the planning application. The applicant is not the registered owner of the site or the adjoining lands.
- 6.5.8. The site notice was obscured / concealed and not easily visible and legible from the public road. This is a breach of Article 19 of the Planning Regulations.
- 6.5.9. With regard to waste water treatment it is stated that there was a prolonged dry spell in May 2016 prior to conducting these tests and this have been independently verified by Met Eireann. There is also a significant conflict between the site assessment results and previous independent assessment conducted on this site which showed it clearly failed site inspection tests. The area is subject to enormous problems with septic tanks and proprietary wastewater treatments systems with foul smells regularly apparent. These are clearly prejudicial to human health. The proposed percolation area is uphill of adjoining houses and of a well.
- 6.5.10. This is a very busy road with major traffic hazards and there are poor sight lines from the site. The proposed development is on an unserviced site and there are no footpaths in the area. The adjoining road is extremely busy and hazardous. The proposed development is close to a dangerous junction and there are extensive road markings and signage warnings.
- 6.5.11. The topography of the site, the excessive scale and height of the proposed development is particularly obtrusive in the landscape. The siting of the proposed

structure overlooks the rear of adjoining residential property, thereby depriving these houses of privacy and residential amenity. The height and scale of the development means this cannot be remedied by simply planting some screening plants.

6.5.12. Note: the submission was accompanied by the following:

- Extracts from the Limerick County Development Plan 2010 – 2016
- Extracts from the Murroe Village Design Statement
- Photo of site notice
- Article 19 of the Planning Regulation's re Site Notice
- Decision High Court on Site Notice
- Recommendation of previous local authority planner on Reg Ref 00/1444
- Met Eireann Rainfall Records for May 2016
- Original observation to Planning Authority
- Observation to Planning Authority on discovering further information submitted by applicant
- Letter referred to in appeal on previous planning application
- Letter of acknowledgment from Planning Authority to appellant re different development
- Letter from Planning Authority returning further submissions / observations to appellant

7.0 Assessment

7.1.1. I note the issues raised by the appellants regarding location and visibility of the public notice, notification of further information received and the adequacy of information provided with the application. It is not for An Bord Pleanála in this instance to determine whether the application was in breach of the Planning and Development Regulations 2001. I do not therefore consider these issues in this context to be material to the consideration of this appeal and therefore I do not propose to deal with these matters in this assessment. However, I would make the comment that together with my site visit I am satisfied that there is adequate information available on the appeal file to consider the issues raised in the appeal and to determine this application. I would also point out for the purpose of clarity that

the development proposed is considered “de novo”. That is to say that the Board considers the proposal having regard to the same planning matters to which a planning authority is required to have regard when making a decision on a planning application in the first instance and this includes consideration of all submissions and inter departmental reports on file together with the relevant development plan and statutory guidelines and any relevant planning history relating to the application.

7.1.2. The concerns raised regarding legal interest are also noted. It is noted from the file that the site is contracted to be in the applicant’s ownership on receipt of a grant of permission. However, I would draw attention to Section 34(13) of the Planning Act that states, that a person is not be entitled solely by reason of a permission to carry out any development. Therefore, should planning permission be granted and should the observers or any other party consider that the planning permission granted by the Board cannot be implemented because of landownership or title issue, then Section 34 (13) of the Planning and Development Act 2000 is relevant.

7.1.3. Limerick City & County Council granted permission subject to 16 generally standard conditions. The application submitted on the 12th July 2016 was for the construction of a new dwelling (643.96 sqm), detached garage, detached shed, a treatment system, a domestic entrance and all associated site works. The applicant submitted unsolicited further information on the 5th September 2016 in response to the observation on the planning file. In response to a request for further information the applicant submitted further information on the 27th October 2016. Accordingly, this assessment is based on the plans submitted to the planning authority on 12th July 2016, as amended by further plans and particulars received by the Planning Authority on 5th October 2016 and 27th October 2016.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Design & Visual Impact
- Wastewater Treatment
- Appropriate Assessment Screening

- Section 48 Development Contributions

7.3. Principle / Policy Considerations

- 7.3.1. Under the provisions of the Limerick County Development Plan 2010 – 2016 the site is in an area of Strong Urban Influence where *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.*
- 7.3.2. Notwithstanding this general objective for the area the appeal site is also located within the development boundary for Murroe – Map A-3 refers – and is zoned Agriculture. *This zoning is to allow uses which are directly associated with agriculture, and in some cases to reflect existing land uses.* I refer to Table APP 1.1 Zoning Matrix of the Development Plan where it is indicated that a dwelling use is *not generally permitted on lands zoned agriculture except where compliance can be demonstrated in accordance with rural housing policy set out in Chapter 3 of the Development Plan.*
- 7.3.3. Having regard to the foregoing it is my view that there are two rural housing policies that must be considered in this case (1) Section 3.9.2 Local Rural Persons and (2) Objective RS 01 Single Houses in Areas under Strong Urban Influence.
- 7.3.4. **Section 3.9.2 Local Rural Persons** - The Council, through the Development Plan recognises the needs of local rural people who wish to live or work in the area in which they grew up. Therefore, 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'
- 7.3.5. The applicant must satisfy all three criteria to be consider a "local rural person".
- 7.3.6. Firstly, 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. In this case the applicant states that they lived with their family in Limerick and moved to Murroe over six years ago. Based on the information available the applicant does not meet the criteria of a “local rural person” in this instance.

7.3.7. Secondly, the ‘Local Rural Area’ for the purpose of this policy is defined as inter alia the area generally, but not exclusively, within a 10km radius of the applicant’s family home. The applicant has stated that they live in Murroe and therefore I am satisfied that they are within the “local rural area” and meet the criteria in this instance.

7.3.8. Lastly, 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. While it is indicated throughout the appeal file that the applicant has a house in Murroe according to the case planners report the applicant does not own a house and therefore meets the criteria for “local housing need”.

7.3.9. Having regard to the foregoing the applicant only meets two of the three criteria and therefore does not qualify as a Local Rural Person in this instance.

7.3.10. **Objective RS 01 Single Houses in Areas under Strong Urban Influence** – 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. 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. 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).

- 7.3.11. As set out, under this policy the applicant must satisfy any one of the four criteria in order to demonstrate a genuine housing need. In this case the applicant is not a long term landowner i.e. a person who has owned a minimum of 10 hectares of land in the rural area for a minimum period of 15 consecutive years. The applicant is not engaged in working a family farm nor is the applicant working in essential rural activities. As established above the applicant is not a local rural person(s) i.e. they have not spent a substantial period of their lives (minimum 10 years) in the local area. Accordingly, the applicant does not meet any of the criteria and therefore does not qualify under Objective RS 01.
- 7.3.12. The report of the Case Planner states that the application has not submitted any documentary evidence in relation to her qualification for local rural status but that the principle of housing need *has already been accepted (confirmed via email 25th August 2016) by the Senior Planner after pre-planning meeting.*
- 7.3.13. I have considered the information on file and in particular the submission from Limerick City and County Council to the Board on 16th February 2017 that included personal statement from the applicant setting out why they need a new house and the difficulties with their existing house together with letters from the applicants Physiotherapists', Nurses' Healthcare Assistants', Doctor and Occupational Therapist. The applicant states that the current family home in Murroe is not adequate for her circumstances as she is a wheelchair user and dependent on a ventilator and 24-hour care and who benefits from physiotherapy, hydro-therapy and a wide range of activities that in turn generate a large floor plan that must all be accommodated on one level. The applicant is cared for by her mother, father and 2 sisters. There are always 2 nurses and a carer required who sometimes stay overnight; hence the need for additional bedrooms. It is stated that the applicant's requirements are unique and self-evident given her condition and that the applicant will spend more time in her home than the average person.
- 7.3.14. The Council acknowledges that various categories of disability give rise to a range of housing needs in Section 4.5.4 Accommodation for Persons with Sensory/Physical/Intellectual Disabilities of the Development Plan. In particular Objective HOU O10: Design of Accommodation for People with Special Needs states that it is an objective of the Council to *inter alia provide and facilitate the provision of accommodation to meet the needs of those with disabilities through the provision and/or adaption of*

appropriate accommodation. To interpret this objective at face value would imply that any planning application for “Persons with Sensory/Physical/ Intellectual Disabilities” should be considered without regard for any other site specifics / other policies within the development plan and government guidance. However, it is my view that this is not the intention of Objective HOU O10 as to permit the development based on this objective alone would conflict with Section 3.9.2 Local Rural Persons and Objective RS 01 Single Houses in Areas under Strong Urban Influence and thereby materially contravene the development plan.

- 7.3.15. Having regard to the location of the proposed development in an area of Strong Urban Influence and on lands zoned agriculture in the Settlement Zoning Maps and Objectives for Murroe as set out in the Limerick County Development Plan 2010 – 2016 where it is the policy of the planning authority to restrict residential development in such areas and to direct residential development to serviced centres. This policy is considered reasonable. The proposed development would consolidate a pattern of sporadic development in the area which would be detrimental to the rural character of the area, and would lead to demands for the uneconomic provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and development of the area. Refusal is recommended.

7.4. Design & Visual Impact

- 7.4.1. The proposed dwelling before the Board has a floor area of c 644 sqm. It is submitted that due to the large footprint the applicant has offset the dwelling a considerable distance from the public road and that the buildings and outbuildings are designed to imitate a cluster of buildings when viewed from the road.
- 7.4.2. Having regard to the information available on file it is accepted that the overall design of the house is dictated by the applicant’s medical needs. I agree with the appellant that the house appears to be a hybrid between a dwelling house and a small nursing home / medical facility. There is no objection to the siting of the proposed development within the site and I am satisfied that no issues of overlooking arise given the proximity to adjoining properties together with existing boundary treatments. However, the dwelling is notable in scale and this is where issues arise. I accept that the applicant has demonstrated very particular medical circumstances

whereby a larger footprint is required. In my view the design treatment is of no particular architectural merit and it appears that little effort is made to have regard to the sites location and context in terms of elevational design and treatment. While I appreciate that much effort has been given to the internal layout this has been to the detriment of the external composition of the scheme.

7.4.3. The scheme before the Board has had no regard for the sites context and location and together with its scale and architectural treatment I cannot support the development in its current format. Further the matter cannot be addressed by way of condition. In my view what is required is the consideration of the scheme from first principles drawing influence from the traditional rural architecture in terms of “breaking up the scheme”, clustering various elements of the development, materials and landscaping.

7.4.4. Having regard to the nature of housing in the locality and the rural character of the area, the proposed dwelling is considered to be excessive in scale and out of character in terms of design. The proposed development would, therefore, be contrary to the proper planning and development of the area. Refusal is recommended.

7.5. **Waste Water Treatment**

7.5.1. The development will be served by a public water mains and a packaged wastewater treatment system and polishing filter. I have noted the contents of the Site Characterisation Form and details of proposed wastewater treatment system submitted the application. The Site Characterisation Form Report recorded an average T value of 60.86 from three tests whereby wastewater from the septic tank system is likely to cause ponding at the surface of the percolation area and would not therefore be suitable for a septic tank system. The report concluded that the site was suitable for the incorporation of a packaged wastewater treatment system and polishing filter subject to conditions as set out in the report. The proposed arrangements were considered acceptable to the Planning Authority.

7.5.2. 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. However, I have considered the

proposed wastewater treatment layout plan and the proposed site layout plan together with my site visit and it is evident given the topography of the site that effluent will be required to be pumped up hill from the house to the “treatment tank with pump” (OD 95.0) and from here uphill again to the distribution box (OD 97.00 – 97.5). While the cross section levels of the house and site as indicated on drawing title Proposed Site Section A-A do not appear to correspond with site levels indicated on the proposed site plan I am satisfied based on the levels indicated on the proposed wastewater treatment layout plan and the proposed site layout plan that the level of the house will be below the “treatment tank with pump”.

- 7.5.3. Pumping effluent in single houses is in my view unacceptable and unnecessary in this case given the size of the site (red and blue line). It is evident from the appeal file and the planning history that the site has been subjected to a number of percolation tests and trial holes in the past and has failed the requisite tests. In this context I consider the chosen location of the effluent treatment system in this case to be symptomatic of the poor drainage within the field as documented in previous Board decisions and 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 and proprietary wastewater treatment plants in an area of low soil impermeability. Refusal is recommended.

7.6. Appropriate Assessment Screening

- 7.6.1. The appeal site is not located on or adjacent to any Natural 2000 site. Having regard to the nature and scale of the proposed development, nature of the receiving environment and proximity to the nearest European site (Lower River Shannon SAC (Site Code 002165) and the Slievefelim to Silvermines Mountains SAC (Site Code 004165)) no appropriate assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site

7.7. Section 48 Development Contribution

- 7.7.1. Limerick City & County Council at its Council meeting on 23rd January adopted the Development Contribution Scheme 2017-2021 under Section 48 of the Planning and

Development Act 2000. Section Exemptions sets out the categories of development which will be exempted from the requirement to pay a development contribution under the scheme. The proposed scheme is not exempted from the payment of a Section 48 Development Contribution. I recommended that should the Board be minded to grant permission that a Development Contribution condition is attached.

7.8. Conclusion

- 7.8.1. The proposed development is excessive in scale, visually intrusive in the landscape, would overlook the rear of adjoining dwellings, adversely affect residential amenity, has poor sight lines, is in an area of major traffic hazards and would exasperate ribbon development and urban sprawl in the open countryside, contrary to proper planning and sustainable development.

7.9. Recommendation

- 7.9.1. Having considered the contents of the application, the provision of the **Limerick County Development Plan 2010 – 2016**, 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.

8.0 Reasons and Considerations

1. Having regard to the location of the proposed development in an area of Strong Urban Influence and on lands zoned agriculture in the Settlement Zoning Maps and Objectives for Murroe as set out in the Limerick County Development Plan 2010 – 2016 where it is the policy of the planning authority to restrict residential development in such areas and to direct residential development to serviced centres. This policy is considered reasonable. The proposed development would consolidate a pattern of sporadic development in the area which would be detrimental to the rural character of the area, and would lead to demands for the uneconomic provision of further public services and community facilities. The proposed

development would, therefore, be contrary to the proper planning and development of the area.

2. The Board is not satisfied, on the basis of the submissions received in connection with the planning application and the appeal, that the site is capable of being drained satisfactorily, notwithstanding the proposed use of a proprietary wastewater treatment system. Furthermore, 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 and proprietary wastewater treatment plants in an area of low soil impermeability. The proposed development would, therefore, be prejudicial to public health.

3. Having regard to the nature of housing in the locality and the rural character of the area, the proposed dwelling is considered to be excessive in scale and out of character in term design. The proposed development would, therefore, be contrary to the proper planning and development of the area.

Mary Crowley

Senior Planning Inspector

30th March 2017