



An
Bord
Pleanála

Inspector's Report PL91.249089

Development	To construct a detached split level dwelling with a standable garage, served by packaged and tertiary waste water treatment system
Location	Ballyengland Upper, Askeaton, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	17/529
Applicant(s)	Brendan Boyce
Type of Application	Permission
Planning Authority Decision	Grant subject to Conditions
Type of Appeal	Third Party
Appellant(s)	Bill Mooney
Observer(s)	None
Date of Site Inspection	27 th November 2017
Inspector	Mary Crowley

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1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.34ha, is located east of county road L-6018 in the townland of Ballyengland Upper c. 2.5 km to the east of Askeaton and south of the local road's junction with the N69. The area is characterised by pockets of ribbon development, agricultural land and mature woodland. There is a recently constructed dwelling but and not yet occupied proximate to the site to the south. The site, which is rectangular in shape, constitutes part of a larger field which is covered in mature trees, some of which appear to have been removed / uprooted in the area of the proposed scheme. The site slopes away from the roadside boundary eastwards / north-eastwards towards a small stream. An overgrown stone wall delineates the roadside boundary. The local road is straight and relatively narrow in the vicinity of the site with good sightlines available in both directions.
- 1.2. A set of photographs of the site and its environs taken during the course of my inspection is attached. I also refer the Board to the photographs of the appeal site and environs available to view throughout the appeal file.

2.0 Proposed Development

- 2.1. The application submitted to Limerick City and County Council on the **9th June 2017** was for permission to construct a detached split level dwelling (367 sqm) with a standalone garage (54 sqm), to include all associated site works and served by packaged and tertiary wastewater treatment systems. The proposed water supply will be by means of a private well.
- 2.2. The application was accompanied by the following:
 - Site characterisation form together with proposals for a packaged wastewater treatment and tertiary treatment filter
 - Letter of consent from the landowner
 - Cover letter stating that the applicant, when at home lives with his parents in Friary Court but that he is working in Australia. Further stated that the footprint of the house is largely free of mature trees. Also noted that the site has been reduced from 0.4ha in the previous application to 0.34 ha in order to lessen the impact on the natural landscape.

2.2.1. **Unsolicited further information** was submitted on the **10th July 2017** comprising the following:

- Tree Survey
- Stated that there is a 10m difference on the southern boundary from that identified in 2014. Current boundary identified and stated that the 2014 applicant unintentionally encroached into the wooded area.

3.0 **Planning Authority Decision**

3.1. **Decision**

3.1.1. Limerick City and County Council issued a notification of decision to grant permission subject to 17 generally standard conditions summarised as follows:

- | | |
|------------------------|---|
| Condition No 1 | Compliance with plans and particulars lodged on 9 th June 2016 and 10 th July 2017. |
| Condition No 2 | Section 48 Development Contribution in the amount of €7,340.00 |
| Condition No 3 | All trees identified on the Tree Survey and Plan of Preservation and Impact Assessment submitted on 10 th July 2017 shall be retained. |
| Condition No 4 | Surface Water |
| Condition No 5 | Surface Water |
| Condition No 6 | No building over water mains, common pipes or services |
| Condition No 7 | Existing roadside boundary to be retained and details of entrance gates |
| Condition No 8 | Sight lines |
| Condition No 9 | No lighting permitted within curtilage site at roadside entrance or gate piers |
| Condition No 10 | Roadside utility poles to be removed |

- Condition No 11** No development shall commence until the water supply source is tested
- Condition No 12** Garage shall only be used for storage purposes and incidental to the enjoyment of the house
- Condition No 13** Rood shall be covered in blue / black or dark grey tiles / slates
- Condition No 14** External finishes to be agreed
- Condition No 15** All public service cables shall be located underground
- Condition No 16** Waste management plan

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Local Authority Planner** in their report of 1st August 2017 set out the following as summarised:

- In the previous application the Limerick City and County Council in their refusal included a reason relating to the removal of native trees. Noted that the Board removed this reason due to the screening afforded by the trees to be retained and screening offered by the wooded areas to the northeast and east. The tree survey has been noted and recommendation that all existing mature trees be retained with the exception of two that should be removed. Recommended that a condition be attached requiring the retention of trees on site.
- The site characterisation for the site has deemed the site suitable for installation of a waste water treatment plant. Noted that a report from Environment recommends that adequate depth of bedrock has been demonstrated in the report.
- The road to the front of the site is relatively straight. The existing front boundary should be maintained with the exception with the exception of the proposed vehicular entrance.

3.2.3. The Local Authority Planner 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.

3.2.4. Other Technical Reports

3.2.5. **Environmental Services (Operations)** in their report of 26th July 2017 recommended that permission be refused on the basis of groundwater status, existing housing density and hydrological conditions.

3.2.6. **The Environment Section** in their report of 27th July 2017 notes from the site assessment that the assessor has found a location on site with increased depth of bedrock (2.35m rather than 1.5m from the 2014 Planning Permission). The assessor has proposed the installation of secondary and tertiary treatment of effluent on site which will give an increased depth of subsoil. Recommended that conditions be attached requiring the following:

- The installation of the on-site treatment system and tertiary filter system shall be supervised and certified as being fit for purposes and in accordance with planning permission by either the person who carried out the site suitability assessment or by another qualified site suitability assessment agent
- The polishing filter must be constructed as per the proposed layout from the site characterisation report
- A report, including photographs of the polishing filter construction must be submitted to the planning authority within one month of completion of works

3.3. **Prescribed Bodies**

3.3.1. There are no reports from any prescribed bodies recorded on the appeal file.

3.4. **Third Party Observations**

3.4.1. There is one observation recorded on the appeal file from Bill Mooney (appellant) that may be summarised as follows:

- Pollution of objectors well and other wells in the area

- Site located on area of fractured limestone and the proposal to dispose of effluent to ground water does not guarantee the safety of the water supply in the area
- The site is elevated and will lead to overlooking
- The site proposed entrance will cause a traffic hazard
- An Bord Pleanála correctly refused the previous permission on the site
- The proposal is contrary to the proper planning and sustainable of the area

4.0 Planning History

4.1. There was a previous appeal on this site that may be summarised as follows:

4.2. **PL 91.243948 (Reg Ref 14/621)** – A decision by Limerick City and County Council to refuse permission for the erection of a split level dwelling house, garage, entrance, effluent treatment system and polishing filter at Ballyengland Upper, Askeaton, County Limerick was appealed. In **February 2015** the Board refused permission for the following two reasons:

- 1) *The subject site has very free-draining soils, does not have a significant depth of soil cover, and is located in proximity to a stream and its floodplain. The Board concurred with the concerns of the planning authority in relation to the groundwater status of this area, the housing density in the general vicinity, and the hydrogeological conditions at the site. The Board considers that the combination of site conditions are not appropriate for the disposal of foul effluent, and that a high level of reliance on engineering design and on the operation and maintenance of the proposed system, would not be sufficient to overcome these inherent difficulties. The Board also has serious concerns in relation to the precedent that would be set for similar such undesirable development at this sensitive location. The proposed development would, therefore, be prejudicial to public health, would give rise to an unacceptable risk of pollution of waters, and would be contrary to the proper planning and sustainable development of the area.*
- 2) *It is considered that the scale of woodland required to be removed to facilitate the proposed development, including the trees to be removed for the*

proposed vehicular entrance and the sightlines needed on this narrow road, would, by itself and by the precedent it would set for similar such undesirable development in this vicinity, seriously injure the visual amenities of the area, and would contravene Objective EH O6 (Landscaping and Development) of the Limerick County Development Plan 2010–2016, which seeks to resist the removal of substantial lengths of roadside boundaries. The proposed development would, therefore, be contrary to the proper planning and sustainable development of this 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. The site is within an area designated as being **structurally weak** in its settlement strategy. The following policies and objectives are relevant to this case:
- **Policy RS P1** – It is a policy 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 P3** – It is policy 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 01 to RS 08 are met and where

standards in relation to siting, design, drainage and traffic safety set down in the Plan are met.

- **Objective RS 03** – To help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.
- **Objective EH O6** – To ensure the adequate integration of development into the landscape by the retention of existing trees and landscape features; to encourage the use of native species and to resist the removal of substantial lengths of roadside boundaries.

5.1.3. Table 10.2 sets out the design guidelines for residential developments in rural areas.

5.2. Natural Heritage Designations

5.2.1. The site is not located within a designated Natura 2000 site. There are several European site within 15km of the appeal site including the Lower River Shannon SAC (Site Code 002165), River Shannon and River Fergus SPA (Site Code 004077) and Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161). The Natura 2000 sites closest to the appeal site are Barrigone SAC (Site Code 004432), Askeaton Fen Complex SAC (Site Code 002279) and Curraghchase Woods SAC (Site Code 000174).

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal has been prepared and submitted by Bill Mooney and may be summarised as follows:

6.1.2. **Risk of Pollution** – Acknowledged in previous applications Reg Ref 14/621 and Reg Ref 19/1424 that the entire area is sitting on an extensive area of fractured limestone with shallow free draining soils, poor depth of soil cover (rock outcrop) and is located in proximity to a stream and its flood plain. The site assessment is not

representative of the site. Concern is raised with regard to the ability of the site to accept sewerage effluent.

- 6.1.3. **Removal of Trees** – The area of the proposed site for the house has been cleared. Concern is raised that the remaining trees will not be cleared as they may present an unacceptable risk to the occupants of the house.
- 6.1.4. **Traffic Safety** – As part of the previous application on site it was acknowledged that it was necessary to remove a number of trees to provide the required sight lines. Queried why it is not necessary in this case. Further the entrance would pose an additional traffic hazard for road users.
- 6.1.5. **Overlooking** – The sitting room and kitchen and main bedroom are all located on the upper floor and will overlook the appellants home.
- 6.1.6. **Summary** – the current scheme is for all intents and purposes the same as the previous appeal PL91.243848. Submitted that if it was not correct to grant permission before then it's not correct to grant permission now.
- 6.1.7. The appeal was accompanied by the appellant's objection submitted to Limerick City and County Council. Please refer to Section 3.4 above for summary.

6.2. Applicant Response

- 6.2.1. The first party response to the appeal has been prepared and submitted by Adam Kearney Associates, Town Planning Consultancy on behalf of the application and may be summarised as follows:
- 6.2.2. **Background** – The applicant is currently living in Australia and is originally from Askeaton 3.5km from the proposed site. He was born and raised in Askeaton and went to Australia during the recession in order to work and save money to build a house in his own parish. The applicant does not own a dwelling in Ireland and this will be his primary place of residence.
- 6.2.3. **Current Application** – The new site characterisation exercise switched the focus to another area of the site where the depth of unsaturated soil to bedrock was deeper than before. The Environmental Section requested the applicant to augment the proposal with a tertiary system as an additional layer of filtration due to the ground characterisation of the area. The impact or removal of woodland was also

addressed through the engagement of an arboriculturalist. Further the previous boundary was 10m further south in error and this would have included some woodland that was not in the site area.

- 6.2.4. **Risk of Pollution** – Environmental Report attached concluded that having regard to the catchment shape and the volume of groundwater head, it is evident that the greatest risk (if any) of contamination of the objectors bore well is from the eastern side of the catchment, not the western side where the applicants site is located.
- 6.2.5. **Removal of Trees** – There is no intention to needlessly remove any significant trees. The applicant has already engaged an arboriculturalist whose report comprised part of the original application. Submitted that this report is sufficient to address this point.
- 6.2.6. **Traffic Safety** – Minor boundary opening works will succeed in creating a safe access point to this development. Sight lines are achievable and due to the straight nature of the road there is no safety issues anticipated.
- 6.2.7. **Overlooking** – There is zero potential for any overlooking. The applicant and appellant are approximately 150m apart as the crow flies. There is woodland between both and the applicant has no desire to remove any woodland that would compromise the natural seclusion of the site as it exists today.
- 6.2.8. The submission was accompanied by a supporting environmental report pertaining to the points raised by the appellant.

6.3. **Planning Authority Response**

- 6.3.1. There is response from Limerick City and County Council recorded on the appeal file.

6.4. **Observations**

- 6.4.1. There are no observations recorded on the appeal file.

6.5. **Further Responses**

- 6.5.1. The appellant submitted the following additional comments in response to the first party response to the appeal:

- The appellants concerns are site specific and that there are many sites in the area which are suitable for the development of one off houses but this is not one of them
- Sub soil conditions are variable and erratic and not consistent and there is a real risk to ground water in the area.
- The variable nature and depth of soil and the presence of fractured rock is a source of high risk and for this reason it is absolutely necessary that permission is refused
- Difficult to agree that adequate sightlines can be obtained without the removal of the existing boundary and nearby trees.
- It would appear that a number of trees have already been removed to facilitate the scheme and so the fear is that the remainder of the trees will disappear by stealth
- Fear that to permit this scheme will set a precedent for further permissions for houses and septic tanks in this vulnerable aquifer and that the area of natural woodland will be wiped out

7.0 Assessment

- 7.1. The application submitted to Limerick City and County Council on the **9th June 2017** was for permission to construct a detached split level dwelling (367 sqm) with a standalone garage (54 sqm), to include all associated site works and served by packaged and tertiary wastewater treatment systems. The proposed water supply will be by means of a private well. Unsolicited further information was submitted on the **10th July 2017** comprising a Tree Survey and clarification on boundary location. Limerick City and Council issued a notification of decision to grant permission subject to 17 generally standard conditions.
- 7.2. It is noted that in 2014 a decision by Limerick City and County Council to refuse permission for the erection of a split level dwelling house, garage, entrance, effluent treatment system and polishing filter at this location was appealed to An Bord Pleanála. The Council had refused permission for two reasons relating to (1) waste water treatment and public health and (2) the excessive removal of nature indigenous woodland and associated visual impact. In February 2015 the Board

refused permission for two reasons relating to (1) sites conditions not being appropriate for disposal of foul effluent and that the (2) scale of woodland required to be removed to facilitate vehicular entrance and sightlines would injure visual amenities and contravene Objective EH06 (PL 91.243948 (Reg Ref 14/621) refers).

7.3. 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
- Wastewater Treatment
- Visual Impact / Woodland Removal
- Appropriate Assessment Screening
- Section 48 Development Contributions

7.4. Principle / Policy Considerations

7.4.1. This is an application for a single one off house and treatment system in a rural area of Co Limerick. As set out in the Development Plan the site is located in an area designated as a “Structurally Weak Area” and is described as a rural area that generally exhibits *characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth.* The Plan further states that *these rural areas are more distant from the major urban areas and the associated pressure from urban generated housing.* Objective RS O3: Single Houses in Structurally Weak Areas states that in order to *help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.*

7.4.2. Having regard to the information available on file I am satisfied that that the principle of the development proposed to be in line with settlement policy of Limerick City and County Council subject to the acceptance or otherwise of site specifics / other policies within the development plan and government guidance. Further, while I note the concerns raised by the appellant in relation to overlooking I am satisfied, having

regard to the design, scale and location of the dwelling proposed is acceptable and that it will not detract from the residential amenities of any adjoining residential properties.

7.5. Wastewater Treatment

7.5.1. The development will be served by a bore well and a packaged and tertiary wastewater treatment systems. As set out previously, An Bord Pleanála refused planning permission on this appeal site in 2015 for the following reason:

(1) The subject site has very free-draining soils, does not have a significant depth of soil cover, and is located in proximity to a stream and its floodplain. The Board concurred with the concerns of the planning authority in relation to the groundwater status of this area, the housing density in the general vicinity, and the hydrogeological conditions at the site. The Board considers that the combination of site conditions are not appropriate for the disposal of foul effluent, and that a high level of reliance on engineering design and on the operation and maintenance of the proposed system, would not be sufficient to overcome these inherent difficulties. The Board also has serious concerns in relation to the precedent that would be set for similar such undesirable development at this sensitive location. The proposed development would, therefore, be prejudicial to public health, would give rise to an unacceptable risk of pollution of waters, and would be contrary to the proper planning and sustainable development of the area.

7.5.2. The layout of the current appeal before the Board is similar to that of the previous appeal save for the location of the proposed domestic waste water treatment facility. In previous scheme the septic tank and soil polishing filter were located to the north of the proposed dwelling. In the current scheme the effluent treatment system and tertiary system are located to the east and rear of the house. The applicant states that the current scheme switched the focus in the site characterisation exercise to another area of the site where the depth of unsaturated soil to bedrock was deeper than before. The applicant submits that the Environmental Section of the Local Authority requested the applicant to augment the proposal with a tertiary system as an additional layer of filtration due to the ground characterisation of the area. The

Environmental Report attached to the first party response to appeal concluded that having regard to the catchment shape and the volume of groundwater head, it is evident that the greatest risk (if any) of contamination of the objectors bore well is from the eastern side of the catchment, not the western side where the applicants site is located.

7.5.3. Limerick City & County Council Environmental Services (Operations) in their report of 26th July 2017 recommended that permission be refused on the basis of groundwater status, existing housing density and hydrological conditions. However the Environment Section in their report of 27th July 2017 noted from the site assessment that the assessor had found a location on site with increased depth of bedrock (2.35m rather than 1.5m from the previous application). The report noted that the assessor had proposed the installation of secondary and tertiary treatment of effluent on site which would give an increased depth of subsoil and recommended conditions to be attached to any grant of permission.

7.5.4. As documented by the Inspector in the previous appeal and outlined in the first party response to the appeal the area has extensive fractured limestone bedrock and has free draining soils and that these soils may be shallow in parts. The previous Inspector also noted from the information available that *from the Geological Survey of Ireland and the EPA that the area overlies a regionally important karst aquifer which is classified as being of poor status and at risk under the Water Framework Directive. The area is also classified as being of extreme groundwater vulnerability. The watercourse approx. 20 metres to the east of the site boundary is also categorised as being of poor status (Askeaton East Tributary of Shannon Estuary South). It is classified as being 'probably not at risk'.*

7.5.5. I have noted the contents of the Site Characterisation Form and details of proposed wastewater treatment system submitted with the planning application together with the detailed Environmental Services Report submitted with the first party response to the appeal. 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 planning history pertaining to the site, the proposed wastewater treatment layout plan and associated details and other reports available on file together with my site visit and it is evident that the site has been subjected to a

number of percolation tests and trial holes in the past and has failed the requisite tests. Again I refer to the previous Inspectors assessment and agree that *notwithstanding the compliance with the stated code of practice I would suggest that the proposal could be considered to run counter to the recommendations of the Rural Housing Guidelines which states that new development should be guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities.* I also consider that the combination of site conditions are not appropriate for the disposal of foul effluent, and that a high level of reliance on engineering design and on the operation and maintenance of the proposed system, would not be sufficient to overcome these inherent difficulties. I am also concerned that coupled with the very real precedent for further one off housing served by effluent treatment systems that could be set in the vicinity would, in my opinion, militate against a favourable decision in this instance. Refusal is recommended.

7.6. Visual Impact / Woodland Removal

7.6.1. As set out previously An Bord Pleanála refused permission on this site in 2015 for a second reason as follows:

(2) It is considered that the scale of woodland required to be removed to facilitate the proposed development, including the trees to be removed for the proposed vehicular entrance and the sightlines needed on this narrow road, would, by itself and by the precedent it would set for similar such undesirable development in this vicinity, seriously injure the visual amenities of the area, and would contravene Objective EH O6 (Landscaping and Development) of the Limerick County Development Plan 2010–2016, which seeks to resist the removal of substantial lengths of roadside boundaries. The proposed development would, therefore, be contrary to the proper planning and sustainable development of this area.

7.6.2. Objective EH O6: Landscaping and Development states that it is the objective of the Council to:

(a) Ensure the adequate integration of development into the landscape by the retention of existing trees and landscape features and/or suitable planting.

(b) Encourage, where appropriate, the use of native species. The layout of landscaping planting and features to act as wildlife corridors within developments, particularly residential developments, and linking with other habitats in the area will be encouraged.

(c) Resist the removal of substantial lengths of roadside boundaries. Where an alternative, suitable site is available for the development, applicants should consider such an alternative on the basis that avoids the necessity for widespread boundary removal. Only in exceptional circumstances should roadside boundaries be removed.

7.6.3. Access to the site and the location of the dwelling within the site of the current scheme before the Board appear to be match those of the pervious layout. As stated in the Tree Survey submitted as unsolicited information to the Planning Authority the site is bounded by woodland however no development works will take place near to this in order to ensure the woodland is protected. Accordingly I share the comments of the previous Inspector that whilst the area has an innate rural quality which is assisted by the pockets of mature woodland, the site is not within an area designated as being of specific visual or landscape amenity in the Development Plan. The design of the dwelling, as with the previous scheme works with the topography of the site and thus will appear as single storey to the front and two storey to the rear. The site is to be located in a pocket of mature woodland and the proposal to retain as many of the trees as possible in addition to the stone wall along the roadside boundary will assist in assimilating the dwelling into the environment. As noted on day of inspection due to the heavily wooded area to the north-east and east, views of the site would largely be screened from the local Adare Road.

7.6.4. However I am concerned with regard to the provision of adequate sight lines at this location and the extent of works required to provide same. The proposed access arrangements set out in the current appeal before the Board are indistinguishable to that of the previous appeal. It is proposed to provide access a new access point with curved entrance wall in order *to improve the vision lines*. I am not satisfied that adequate site lines can be provided based on the current proposal. In this regard I share the concerns raised by the Board in their previous refusal regarding the necessity to remove a significant stretch of the road side boundary in order to achieve adequate sight lines. These works while necessary would be excessive at

this rural location. However without this physical intervention the proposed development would endanger public safety by reason of traffic hazard. Overall I consider that scale of works required to facilitate the proposed vehicular entrance and the sightlines needed on this narrow road, would, by itself and by the precedent it would set for similar such undesirable development in this vicinity, seriously injure the visual amenities of the area, and would contravene Objective EH O6 (Landscaping and Development) of the Limerick County Development Plan 2010–2016. Refusal is recommended.

7.7. Appropriate Assessment Screening

7.7.1. The appeal site is not located on or adjacent to any Natural 2000 site. However there appears to be 6 Natura Sites within 15km of the site as follows:

- 1) Lower River Shannon SAC (Site Code 002165)
- 2) River Shannon and River Fergus SPA (Site Code 004077)
- 3) Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161)
- 4) Barrigone SAC (Site Code 004432)
- 5) Askeaton Fen Complex SAC (Site Code 002279) and
- 6) Curraghchase Woods SAC (Site Code 000174)

7.7.2. The sites that are closest are the last three; Barrigone SAC (Site Code 004432), Askeaton Fen Complex SAC (Site Code 002279) and Curraghchase Woods SAC (Site Code 000174). The appeal site is approximately 800m to the south west of the nearest point of Askeaton Fen Complex SAC (Site Code 002279). Askeaton Fen Complex consists of a number of small fen areas to the east and south-east of Askeaton. This area has a number of undulating hills, some of which are quite steep, and is underlain by Lower Carboniferous Limestone. At the base of the hills a series of fens/reedbeds/loughs can be found, often in association with marl or peat deposits. The qualifying interests are Cladium Fens and Alkaline Fens. To date generic conservation objectives, apply for the site, namely to maintain or restore the favourable conservation status of habitats and species of community interest so as to contribute to the overall maintenance of favourable conservation status of those habitats and species at a national level.

- 7.7.3. The site synopsis states that land use in the area is quite intensive, with improved grassland extending down relatively steep slopes to the edge of the fens/loughs. New drainage or the deepening of existing drains poses a threat to the aquatic habitats at the site and that in some instances, the fens appear to be drying out.
- 7.7.4. The watercourse to the west of the site does appear to drain to the Fen Complex 800 metres to the north. However having regard to the nature of the proposed development, namely a single dwelling served by an on-site treatment system, and the distance between the appeal site and the Natura site i.e. 800 metres at its nearest point, it is reasonable to conclude that 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 002279 in view of the site's conservation objectives and an appropriate assessment (and submission of a NIS) is not therefore required.

7.8. Section 48 Development Contributions

- 7.8.1. Limerick City & County Council has adopted a 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.

8.0 Recommendation

- 8.1. 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.

9.0 Reasons and Considerations

- 1) The subject site has very free-draining soils, does not have a significant depth of soil cover, and is located in proximity to a stream and its floodplain. The Board concurred with the concerns of the planning authority in relation to the groundwater status of this area, the housing density in the general vicinity, and the hydrogeological conditions at the site. The Board considers that the combination of site conditions are not appropriate for the disposal of foul effluent, and that a high level of reliance on engineering design and on the operation and maintenance of the proposed system, would not be sufficient to overcome these inherent difficulties. The Board also has serious concerns in relation to the precedent that would be set for similar such undesirable development at this sensitive location. The proposed development would, therefore, be prejudicial to public health, would give rise to an unacceptable risk of pollution of waters, and would be contrary to the proper planning and sustainable development of the area.
- 2) It is considered that the scale of roadside boundary and woodland required to be removed to facilitate a satisfactory vehicular entrance and the sightlines needed on this narrow road, would, by itself and by the precedent it would set for similar such undesirable development in this vicinity, seriously injure the visual amenities of the area, and would contravene Objective EH O6 (Landscaping and Development) of the Limerick County Development Plan 2010–2016, which seeks to resist the removal of substantial lengths of roadside boundaries. The proposed development would, therefore, be contrary to the proper planning and sustainable development of this area.

Mary Crowley

Senior Planning Inspector

30th November 2017