



An  
Bord  
Pleanála

## Inspector's Report ABP.304116-19

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<b>Development</b>	Single storey dwelling house, entrance, connection to main sewer and associated site works
<b>Location</b>	Dungeeha, Gortboy, Newcastle West Co. Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	19/17
<b>Applicant(s)</b>	Seamus Harrold
<b>Type of Application</b>	Planning permission
<b>Planning Authority Decision</b>	Refuse permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Seamus Harrold
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	31 <sup>st</sup> May 2019
<b>Inspector</b>	Mary Kennelly

## **1.0 Site Location and Description**

- 1.1.** The site is located in the outskirts of Newcastle West in the townland of Dungeeha. It is located just outside the town boundary on the north-eastern side of the town and is accessed via the Cluain Arra housing estate. The road serving the site is a narrow substandard cul-de-sac road which leads out of town from the housing estate. There is a small cul-de-sac of four houses (Daar Lane Close) located just to the southwest and a group of semi-detached houses to the southeast. The area to the north of these houses is rural in character and is predominantly in agricultural use. The River Daar flows to the north-east of the town boundary and crosses the site. To the north of the housing estate, there is a fork in the road, with one spur leading northwards to a farmhouse and farmyard and the other leading eastwards to a language school and several one-off dwellings. The site is located at the intersection of the two spurs (both of which are private) and the estate road.
- 1.2.** The site area is given as 0.27ha. The site is rectangular in shape and is bounded to west by the lane leading to the farmyard, to the south by the eastern private lane and to the east by an agricultural field which separates it from the language school. The southern part of the site straddles the Daar River and part of the road serving the site. There is an existing bridge over the River Daar immediately to the west of the site with dense mature vegetation on both sides of the river where it crosses the site in the south-western corner of the site. The river then flows under the private lane to the south. An access has been constructed to the site from the private lane which is located at the south-eastern corner of the site, close to the point where the river crosses under the lane. The ground levels within the site rise steeply from south to north with a difference of c.10m between the front and the rear of the site.

## **2.0 Proposed Development**

- 2.1.** It is proposed to construct a single-storey dwelling on the site together with a new entrance from the private road to the south. The floor area is given as 203.8 sq.m and the ridge height as 5.23m. The dwelling would be connected to the public services. The site layout plan shows the existing planting around the river to be retained and the existing road to be resurfaced with 2 layers of tarmacadam.

- 2.2. The application was accompanied by a Design Statement, a Flood Report and correspondence from the landowner in support of the proposed development.

### 3.0 Planning Authority Decision

#### 3.1. Decision

The planning authority decided to **refuse** permission for four reasons which may be summarised as follows:

1. The applicant has failed to demonstrate any connection (over the river) to the private road from which access to the site is gained. Having regard to Obj. IN09 of the CDP, to the substandard nature of the private road, to the lack of capacity in the local road network to accommodate additional traffic that would be generated by the proposed development, and to the inability to achieve adequate sightlines at the junction of the local road and the private road, the P.A. considered that the proposed development would be contrary to the proper planning and sustainable development of the area.
2. In the absence of adequate documentary evidence, the applicant has failed to demonstrate a genuine housing need which meets the criteria for Areas of Strong Agricultural Base. The proposal would, therefore, materially contravene the rural settlement policy objectives, would militate against the preservation of the rural environment and be contrary to the proper planning and sustainable development of the area.
3. The access to the site is located within an area at risk of flooding and would be contrary to Obj. IN 035 to minimise the threat and consequence of flooding and in the absence of a Site-Specific Flood Risk Assessment, would be contrary to the proper planning and sustainable development of the area.
4. The proposed dwelling would be considerably at variance with the general character of the area, would constitute an unduly prominent and obtrusive feature in the landscape and would detract to an undue degree from the visual amenities of the area, by reason of its elevated siting and the significant level of alteration to the topography to accommodate the dwelling.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

The Area Planner's report is generally consistent with the reasons for refusal.

**Housing need** - it was considered that no evidence had been provided to substantiate the claims that the applicant qualifies as a 'Local Person' (as defined in the CDP) or that there are no other suitable places to live within 2km of the applicant's place of work (Fire Service). On this basis, it was considered that the applicant has not demonstrated a housing need to live within an area with a 'Strong Agricultural Base'.

**Substandard road** - Reference was made to the substandard nature of the road in terms of being heavily potholed and constructed in crushed gravel, and to the fact that there are two bridges over the river, the structural integrity of which is unclear. The lack of detailed information regarding the existing roadway and the proposed access drive/entrance relative to the river was highlighted as a matter that was causing some confusion. For example, although it was clear that the driveway would cross the river, it was not clear how it would relate to the existing bridge and the submitted plans show the river going back under the roadway further to the east. It was considered that this indicated either that the road was going to be altered or that this was an error. Notwithstanding the proposals to resurface the road, no information has been provided regarding the quality/composition of the existing surface, the structural integrity of the bridges and whether the proposed interventions would be capable of carrying the capacity of vehicles using the road.

**Flood risk** - Although the proposed house is located outside the flood risk area, the southern part of the site and the access road could flood, thereby cutting off evacuation/access routes. Furthermore, the applicant has not demonstrated that the development would not increase the risk of flooding elsewhere. The Area Planner considered that the proposed development did not comply with the requirements of the Flood Risk Management Guidelines and that the submitted flood report did not take account of the CFRAMS evidence base and was not prepared by a professional drainage engineer.

**Siting, layout and design** – It was noted that the FFL would be 7 metres above the level of the road and that despite the lack of existing/proposed sections, it was clear

that the proposed development would require significant alterations to the topography of the site to provide a driveway and a platform for the dwelling. As such, it was considered that it would have an alien and obtrusive appearance and would fail to assimilate into the landscape and hence, to meet the requirements of the Council's Rural Design Guide.

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

**Roads** – The existing roadway is substandard, and the proposed road surface is not acceptable. A Section of the bridge floor is exposed on the road surface at present. A structural report on the integrity of the bridge is required to ensure that it has the capacity to carry further traffic.

**Environment** – no objection.

### **3.3. Prescribed Bodies**

**Irish Water** – it is noted that details of the proposed connection points to the IW water supply and wastewater sewer have not been provided and that it is unclear whether there are any suitable service points available.

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

None.

## **4.0 Planning History**

**18/950** – planning permission refused for a single-storey dwelling on site immediately to the east (same applicant, same landowner). Two reasons for refusal which were based on housing need – failure to demonstrate and the substandard nature of the road and access to it.

**17/397** – planning permission refused for a two-storey dwelling (on same site as current), but with access gained from the laneway to the west via an access drive to the north of the site. Four reasons for refusal.

- Failure to demonstrate housing need.
- Substandard nature of road and potential traffic hazards arising.

- Potential flood risks.
- Visual amenity due to scale, mass and siting of dwelling.

## 5.0 Policy Context

### 5.1. National Planning Framework - Project Ireland 2040

**National Policy Objective 19** – Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### 5.2. Limerick County Development Plan 2010-2016 (as extended)

- 5.2.1.** Newcastle West is designated as one of two Tier 2 settlements in Limerick County, referred to as a Key Town, the other being Kilmallock. The objective for these towns is “to act as local development hubs around which other towns and villages can also expand and develop”. Policy SS P7 is the relevant policy for Tier 2 settlements and this includes the policy to ensure that sufficient land is zoned so that they will act as the primary focus for investment in infrastructure, housing, transport, employment, education, shopping, health facilities and community.
- 5.2.2.** In terms of Rural Settlement Policy, (3.9), the site is located in an are with a **Strong Agricultural Base**. These are described as rural areas that have a had a strong agricultural base, that are restructuring to cope with changes in the agricultural

sector and have an extensive network of smaller rural towns, villages etc. In these areas, the focus of urban generated housing should be in the network of settlements to support the development of services and infrastructure and to take pressure off development in the open countryside.

**5.2.3.** Local Rural Person is defined in section 3.9.2. The Council recognises the needs of local rural people who wish to live or work in the area in which they grew up. There are three criteria which must be met as follows:

**‘Local Rural Person’** – person must be one who is living/has lived in the local rural area for a minimum of 10 years prior to making the application (including returned emigrants).

**‘Local Rural Area’** – the site must be located within their local rural area, i.e. within 10 km of the applicant’s family home.

**‘Local Rural Housing Need’** – the applicant must have a local rural housing need, which 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.

**‘Persons living within the town of Newcastle West’** – to qualify to build a single house within the rural area of Strong Agricultural Base, and in exceptional circumstances within Newcastle West Rural Electoral Division, they would need to have been born in and lived permanently in Newcastle West prior to 1990 and the application site must be within 10km of the applicant’s family home.

**Objective RS02** – Single Houses in Strong Agricultural Base areas to recognise the individual housing needs of people intrinsic to the rural area located within these rural areas to facilitate those with a genuine rural housing need in the area. To qualify for this need, the following criteria are relevant

- (a) The application is being made by a long-term landowner or his/her son or daughter seeking to build their first home on the family lands; or
- (b) The applicant is engaged in working the family farm and the house is for that person’s 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;

(d) The application is being made by a local rural person who for family and/or work reasons wish to live in the local rural area in which they have spent a substantial period of their lives (minimum 10 years) and are seeking to build their first home in the local rural area.

**Objective EH06** – integrate development into the landscape and retain trees and existing landscape features where possible. Only in exceptional circumstances should roadside boundaries be removed.

**Objective IN P7 Road Safety and Capacity** – seek 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 and securing appropriate signage.

**Objective IN O9 Substandard roads** – ....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.

**Objective IN O10 Land uses and access standards** – to ensure that any development involving new access to a public road or the intensification of use of an existing access onto a public road that would compromise the safety and capacity of the road network will not be permitted unless the new or existing access meets the appropriate design standards.

**Objective IN O36 Minimise threat and consequences of flooding** – to avert, or where this is not possible, to minimise the threat of flooding in new developments and existing built up areas. Priority will be given to the protection of vulnerable uses that would be seriously affected by the consequences of flood events. The Council will have regard to the Planning System and Flood Risk Management Guidelines and OPW data and advice in the assessment of all development proposals and any subsequent amendments.



### **5.3. Newcastle West Local Area Plan 2014-2020**

- 5.3.1.** The site is not zoned and is located outside the town boundary. However, it is very close to the town boundary which follows the Daar River on the northern side. Newcastle West is described (2.4) as the main county town for Limerick having the largest population in the county outside the metropolitan area of Limerick City. It is further stated that it has experienced consistent population growth since 1991 and that this trend is expected to continue to 2022.
- 5.3.2.** The population targets, (specified in the Core Strategy of the CDP), determine the amount of land to be zoned for housing in the LAPs. The population target for Newcastle West was an additional 4,600 persons by 2022. The CDP and the LAP both acknowledge that Newcastle West has experienced strong growth between 2006 and 2011 and that it is reasonable to assume that the town will grow by a similar amount to that allocated in the core strategy on a pro rata annual basis. The LAP identifies a need for 1526 residential units and 170 serviced sites by 2020. Land has been zoned in two phases (up to 2022) for new residential development (total 104.37ha) and for serviced sites (total 39.91ha).

### **5.4. Natural Heritage Designations**

The site is within 15km of three European Sites. The distances are

- Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) - c. 6km to west/northwest;
- Lower River Shannon SAC (Site code 002165) - c. 10km to west; and
- Askeaton Fen Complex SAC (Site Code 002279) – c. 15km to north-east.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

The first party appeal was submitted by Morgan McDonogh Architectural and Planning Consultants on behalf of the appellant. The grounds included personal statements by the appellant and the site vendor. The main points raised may be summarised as follows:

- The planning history of the site is recounted, and it is stated that the proposal has been revised to address the reasons for refusal. The landowner obtained permission in 2007 to retain a steel pipe crossing of the river containing a sewer pipe which is an indication of the intention for further development.
- The applicant was born in Bishop Street in Newcastle West, which is 1.18km from the site and has lived there since at least 1990. A birth certificate is submitted with the grounds. Although he is not from the rural area within which the site is located, he has demonstrated a housing need and exceptional circumstances as set out in the County Development Plan under 3.9.2(c). These circumstances relate to the fact that the applicant is employed by the Fire Service and that it is a contractual requirement that he resides within 2km of the fire station in Newcastle West. The site is within 600m of the station. He has spent a considerable amount of time looking for a suitable property within 2km of the station. However, all properties have been either sold, rented or not suited to his needs.
- Access has been revised to one directly off the Cluain Arra estate. It is disputed that the road is substandard as it is over 3 metres in width (4.5m) and it provides access to 6 no. dwellings and a language school. The road is also identifiable as a road on the historic map of the area dating from 1898. The sightlines at the entrance are adequate and the applicant would be prepared to illuminate it.
- The only element that is substandard is the surface finish, which it is proposed to upgrade. It is acknowledged that the P.A. Engineer has concerns regarding the structural integrity of the bridge and the specifications for resurfacing of the road. However, the applicant is prepared to retain a structural engineer to establish what works would be required and to ensure the safety of the bridge.
- The applicant has provided a flood report which concluded that the site is not at risk of flooding. The road serves several other properties and none of the neighbours recall any history of flooding on the road.
- The design of the dwelling has been reduced to single storey and the siting of the dwelling has been revised such that it has been moved lower down the slope and the ridge line is now below the horizon. It is also intended to retain

the existing trees and hedgerows close to the river which will screen it from the housing estate to the south. The main alteration would be the entrance and it is considered that this would not be an unduly obtrusive feature.

## 6.2. Planning Authority Response

The P.A. has not responded to the grounds of appeal.

## 7.0 Assessment

7.1. It is considered that the main issues arising from the appeal are as follows: -

- Rural Settlement Policy
- Adequacy of access and road safety
- Flood Risk Assessment
- Impact on visual amenities
- Environmental Impact
- Appropriate Assessment

### 7.2. Rural Settlement Policy

7.2.1. The site is located just outside the town boundary in a rural area described as an Area of Strong Agricultural Base in the CDP (3.9.1). These are areas which traditionally have had a strong agricultural base and are restructuring to cope with changes in the agricultural sector. It is stated that the focus of urban generated housing should be in the network of settlements to support the development of services and infrastructure and to take pressure off development in the open countryside. Under **Objective RS O2**, the individual housing needs of people intrinsic to the rural area located should be accommodated within these rural areas, subject to meeting normal planning and environmental criteria. It is further stated that it is an objective to permit single houses in the area of strong agricultural base to facilitate those with a ***genuine rural housing need*** in the area.

7.2.2. The RS O2 policy objective goes on to specify the criteria required to demonstrate such a genuine rural housing need. The applicant must be a long term landowner (or son/daughter); be engaged in working the family farm; be working in essential rural

activities and needs to be accommodated near their place of work; or be 'a local rural person' who for family and/or work reasons, wish to live in the rural area in which they have spent a substantial period of their lives (minimum of 10 years) and are seeking to build their first home in the local rural area.

- 7.2.3.** Section 3.9.2 sets out what is meant by 'Local Rural Persons', for which there are three criteria. Firstly, the applicant must come within the definition of a 'Local Rural Person', AND secondly, the site must be located within that person's 'Local Rural Area', AND thirdly, the applicant must have a 'Local Rural Housing Need'. These criteria are further expanded upon in that the Local Rural Person must have lived in the local rural area for at least 10 years, the Local Rural Area is defined as a 10km radius of the person's family home and there are further variations on this in terms of the distance. A 'Local Rural Housing Need' is defined as a person who 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. A 'Local Rural Person' excludes persons from either a Tier 1 or a Tier 2 settlement, of Newcastle West is one. However, there is an exception in respect of this town (3.9.2(c)) which reads as follows:

For persons living within the town of Newcastle West to qualify to build a single house within the rural area of Strong Agricultural Base, and in exceptional circumstances the Newcastle West Rural Electoral Division, they would need to have been born in and lived permanently in Newcastle West prior to 1990 and the application site must be within 10 km of the applicant's family home.

- 7.2.4.** The applicant has provided justification for building a dwelling at this location on the basis of having been born in the town of Newcastle West, having lived there permanently since before 1990 and the fact that the site is within 2km of his family home and 600m of the fire station where he works. It is stated that the requirement to live within 2km of the fire station represent 'exceptional circumstances'. Although it is acknowledged that the applicant has a housing need to reside within 2km of the fire station, it is considered that this is not the same as having a 'rural housing need' to live in the 'local rural area' as defined in the Development Plan. No evidence has been provided to demonstrate that he needs to reside in this particular rural area, which appears to form part of the Newcastle West Rural Electoral Division.

**7.2.5.** The applicant's housing need is considered to be an urban generated housing need and, as such, should be accommodated within the settlement. Newcastle West is a Tier 2 settlement which is described in the CDP as the largest town outside the metropolitan area of Limerick. According to the CDP, the town has experienced strong growth since 1996 and this trend is expected to continue to 2022. There are 119ha of land zoned for either residential development or for serviced sites in the Newcastle West LAP. It is noted from the LAP (2.2) that the 2011 Census had recorded 558 vacant dwellings in the town, which had represented 19.4% of the housing stock, and that this had compared with 14.5% nationally at the time. There were also four unfinished housing estates at the time which had included Daar River Walk and Daar River View, which have since been completed and are located just to the south of the appeal site. It is therefore not credible that a suitable property could not be secured within the settlement boundary.

**7.2.6.** It is considered that the site is located in a rural area under urban influence and that the advice in the National Planning Framework for such areas is to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in the rural area (Objective 19). The Planning Authority's settlement policies are consistent with this objective. It is considered that the proposed development would represent piecemeal and un-coordinated development of the town into the surrounding countryside and erode the established boundary on the northern side of the town. As the housing need of the applicant is considered to be urban generated, it would also contravene Objective RS O2 to provide of single houses in Areas of Strong Agricultural Base for those with a genuine rural housing need.

### **7.3. Access and Road Safety**

**7.3.1.** The site is located on a private road at the end of a public housing estate road. The applicant claims that the private road serves six dwellings, but this was not apparent either from the site inspection or from the ordnance survey maps for the area. It was also stated that the road has existed historically, but the historic OS maps indicate that the road through the estate terminated at a ford immediately to the south of (and including a part of) the site. The Planning Enquiry system for Limerick County also includes a permission for the retention of a steel pipe crossing the river (072515). This was submitted by the land-owner, but it related to a river crossing further to the

east along the lane and did not show the presence of either the eastern or the northern spurs which are currently in situ. It is clear, however, that there are at least two crossings of the river and that the river may even have been re-routed to facilitate the private lane. There is a bridge over the river to facilitate the northern access lane and a further bridge at the entrance to the site, but no information has been provided regarding these structures or when they were constructed.

**7.3.2.** The P.A. has stated that the road is substandard in that it is heavily potholed, constructed of crushed gravel and that the structural integrity of the two bridges is unclear. I would agree that the road is substandard and appears to have been constructed without consultation with the local authority. There is very little clarity on the structural integrity of the road or bridges and its capacity to accommodate any additional traffic. It is substandard in terms of alignment, surface condition and the junction with the public road. The sightlines available at this junction appear to be inadequate. As such, the proposed development contravenes Objective **IN O9** which states that where such conditions exist, development will only be considered in exceptional circumstances. It is further stated that a presumption in favour of family members and long-term land owners will be considered in exceptional circumstances, where no alternative site is available. It is noted in the current case, however, that the applicant's family are not connected to the lands in question and that the land owner has already obtained planning permission for several developments in the vicinity of the site.

**7.3.3.** I note that Development Plan policy objective **IN P7** also seeks to preserve the capacity and improve the safety of the road network, through minimising existing traffic hazards and preventing the creation of additional or new traffic hazards. In light of these policies and objectives, it is considered that the provision of a further vehicular access as proposed, at this point on this strategic regional road, would give rise to a traffic hazard, which would be contrary to the said policies and objectives to seek the improvement of road safety and capacity.

#### **7.4. Flood risk assessment**

**7.4.1.** The Limerick CDP and the Newcastle West LAP both require new development to minimise the threat and consequences of flooding and state that the Council will have regard to the Government's Flood Risk Management Guidelines. Objective **IN**

**O36** of the CDP is to avert, or where this is not possible, to minimise the threat of flooding in new development and existing built-up areas. Objective **IN O39 (d)** requires any development proposal in a location identified as being subject to flooding to carry out certain steps which may be summarised as follows:

1. Carry out a flood risk/catchment analysis for the development to assess the likely level of flood hazard that may affect the site
2. Design the development to avoid flood levels, incorporating building design measures and materials to assist evacuation and minimise damage to property from flood waters
3. Demonstrate that the proposal will not result in increased risk of flooding elsewhere, restrict flow across floodplains or alter the hydrological regime upstream or downstream of the site so as to pose additional flood risk/increase flood risk.
4. Reduce the rate and quantity of run-off, i.e. minimisation of concrete/impermeable surfaces and inclusion of SUDS
5. Have regard to the OPW policy guidance on flood risk management.
6. Preserve riparian strips free of development and ensure adequate width to permit access for river maintenance.

All FRA's should have regard to national Flood Hazard Mapping, predicted changes in flood events resulting from climate change, the results of the CFRAMS, River Basin Management Plans etc.

Objective **IN O40** seeks to minimise the impact of structures and earthworks on flood plains and river flow. The following type of development will not be permitted in or across flood plains or river channels unless it can be clearly demonstrated using flood impact assessments, that they will not create or exacerbate risk of flooding in sensitive locations.

- (a) Construction of embankments, wide bridge piers or similar structures
- (b) Raising of ground levels where this would interfere with natural river flow or currents.

- 7.4.2.** The Flood Report submitted with the application was produced by the landowner, John Barrett, who is stated to be an Architectural Consultant. This indicated that as the proposed dwelling would be located c. 4.7m above the level of the river, it would not be at risk of flooding. Other factors were also taken into account such as the site being located at the highest point in Newcastle West, the gradient of the river and the interrelationship with other rivers in the vicinity and the likely resulting flow of water, and the nature of the established development (and associated drainage pattern and likely capacity) of the surrounding lands. It was concluded that the combined factors of the elevation of the site, the faster flowing water and greater fall of ground in the area far less compromised by housing development and associated ground changes mean that the potential for the River Daar to flood at this location is impossible.
- 7.4.3.** The Flood Report is not complied in the format required by the Planning System and Flood Risk Management Guidelines (2009) and does not address the CDP policy objectives as summarised above. The objectives of the FRM Guidelines are to avoid inappropriate development in areas at risk of flooding and to avoid new development increasing flood risk elsewhere including that which might arise from surface water run-off. Flood risk is defined as a combination of the likelihood of flooding and the potential consequences arising. The guidelines require that all sources of flooding, all pathways and all potential receptors be examined and that the risk is assessed over the full range of probabilities including extreme events. This has clearly not been addressed in the flood report.
- 7.4.4.** The OPW Flood info maps show that the River Daar is at risk of flooding. The river runs through the site and alongside the private road, which crosses the river in at least two places. No evidence has been provided to show that these crossings were carried out in consultation with the planning authority or that any necessary approvals have been obtained. It is unclear whether these works involved any interference with the natural river flow, such as culverting or diversion of the watercourse. Notwithstanding this, the access to the site, which crosses the river close to the entrance, and the private laneway are likely to be susceptible to flooding, which would be problematic in terms of evacuation and access to/from properties in the event of such flooding. I would, therefore, agree with the third reason for refusal



by the planning authority, but would also agree with the appellant that the objective reference was mis-quoted as IN O35 instead of IN O36.

## **7.5. Impact on visual amenities**

- 7.5.1.** The proposed development is located on an elevated site on elevated lands adjoining the town boundary. It is acknowledged that the applicant has sought to mitigate the effects of the visual impact by reducing the height (from a previous application) and by siting it such that the roof ridge line would be below the horizon. However, given the steep gradient within the site and the fact that the proposed FFL would be c.7m above the level of the adjoining road, with the dwelling sitting on an elevated platform, I would agree with the planning authority's assessment that the dwelling would not be easily assimilated into the landscape due to the significant level of alteration that would be required to the topography.

At present the trees and hedgerows adjoining the road, which are associated with the riparian strip along the river, do screen the site from the south. Should this vegetation be disturbed, damaged, thinned out or felled, however, the screening effect would be adversely impacted and the proposed development would be exposed. It is considered inappropriate to rely solely on the retention of this vegetation to screen a development which would otherwise be an obtrusive element in the landscape and would militate against the rural environment. As such, I agree with the planning authority's fourth reason for refusal.

## **7.6. Environmental Impact Assessment**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

## **7.7. Appropriate Assessment**

There are three European sites within a 15km radius of the site, which are as follows:

Stacks to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code 004161) - c. 6km to west/northwest;  
Lower River Shannon SAC (Site code 002165) - c. 10km to west; and  
Askeaton Fen Complex SAC (Site Code 002279) – c. 15km to north-east.

Having regard to the nature and scale of the proposed development, the distances from the said designated sites, no Appropriate Assessment issues arise. It is considered that the proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## **8.0 Recommendation**

- 8.1.** I recommend that planning permission should be refused for the construction of a new dwelling on the site for the reasons and considerations set out below.

## **9.0 Reasons and Considerations**

1. The site of the proposed development is located within an Area of Strong Agricultural Base, in close proximity to the town boundary for Newcastle West, as defined in the current Limerick County Development Plan, where housing is restricted to persons demonstrating a local rural housing need. It is considered that the applicant does not come within the scope of the housing need criteria as set out in the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would represent piecemeal development and erosion of the town boundary, and would contribute to encroachment of random rural development in the area, which would militate against the preservation of the rural environment. The proposed development would, therefore, materially contravene the rural settlement objectives of the County Development Plan and would be contrary to the proper planning and sustainable development of the area.
2. The road onto which access is proposed is seriously substandard in terms of surfacing and alignment. The Board is not satisfied, on the basis of the information provided with the application and appeal, that the structural integrity

of the road and bridges over the River Daar is adequate to accommodate the additional vehicular traffic and turning movements that would be generated by the proposed development and that adequate sightlines at the junction with the public road can be achieved. It is considered, therefore, that the proposed development would endanger public safety and would give rise to a traffic hazard, and would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the location of the site in an area which is prone to flooding and in the absence of a Site Specific Flood Risk Assessment, the Board is not satisfied, on the basis of the submissions made in connection with the planning application and appeal, that the proposed development would not give rise to an increased risk of flooding of the site or of property in the vicinity. The proposed development would, therefore, be prejudicial to public safety, would contravene Objective IN O36 of the Limerick County Development Plan and would be contrary to the proper planning and sustainable development of the area.
4. Having regard to the topography of the site, the elevated positioning of the development together with the extensive driveway and platform, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located in the vicinity. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Mary Kennelly  
Senior Planning Inspector  
24<sup>th</sup> July 2019