



An  
Bord  
Pleanála

## Inspector's Report ABP-305030-19

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<b>Development</b>	Dwelling, garage, entrance, effluent treatment system, and all associated site works.
<b>Location</b>	Ballyengland Upper, Askeaton, Co. Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	19/369
<b>Applicant(s)</b>	Michael O'Flaherty
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant, subject to 15 conditions
<b>Type of Appeal</b>	Third Party -v- Decision
<b>Appellant(s)</b>	Bill Mooney
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> October 2019
<b>Inspector</b>	Hugh D. Morrison

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## 1.0 Site Location and Description

- 1.1. The site is located 21.1 km west of Limerick city centre and 3.3 km east of Askeaton in an area of countryside that is composed of farmland and woodland. Castle Hewson lies 0.6 km to the south west of the site and beyond an intervening expanse of woodland. The site is accessed off the western side of the L6018, which runs on a north/south axis from its junction to the north with the N69. The access point would be between two woodland areas to the north and south. The far side of the local road also adjoins woodland areas. Within the vicinity of the site, there are two existing dwelling houses within these wood land areas. A greater concentration of dwelling houses lie off the neighbouring local road to the east, which runs through farmland.
- 1.2. The site itself is of rectangular shape and it rises at a gentle gradient towards the local road. This site extends over an area of 0.445 hectares. The majority of it forms part of a field that is down to grass, while roughly the north eastern quadrant forms part of an adjoining woodland. The roadside and woodside boundaries are, variously, denoted by means of an earthen mound and hedgerow and a timber post and wire fence.

## 2.0 Proposed Development

- 2.1. Under the proposal, that portion of the site that is farmed would be developed, while that portion that is wooded would be retained as it is. A two storey dwelling house (314.1 sqm) would be sited in the south western quadrant. This dwelling house would be orientated on an east/west axis. Its principal elevation would feature a projecting gabled element on either side of the front door and its rear elevation would stepdown to be of single storey form at one end, where a living room would be provided. A minor gable element would feature above the first floor window that would, in turn, be above the said front door and gable elements would also feature on the rear elevation.
- 2.2. The proposed dwelling house would be served by a private well to the front of this dwelling house and by a wastewater treatment system to the rear. It would also be served by a garage (79 sqm), which would be sited on the north western quadrant, and a driveway would link the site entrance to the dwelling house and this garage beyond. Both buildings would be served, too, by soakaways.

## 3.0 Planning Authority Decision

### 3.1. Decision

Following receipt of further information, permission granted, subject to 15 conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Reports

Further information requested with respect to the installation of a secondary and tertiary on-site effluent treatment system.

#### 3.2.2. Other Technical Reports

Limerick City & County Council:

- Engineering: Following receipt of further information, no objection, subject to condition.
- Conservation: Advises that the site lies within the Demesne of Castle Hewson (NIAH reg. no. 21901106 – regional significance), i.e. attendant grounds, settings, and amenities: further information requested with respect to demonstrating planning gain from the proposal with respect to the upkeep of the Castle and revisions to the design of the proposed dwelling house, which is considered to be too suburban.

## 4.0 Planning History

Site:

None

Adjacent site to SE:

- 14/621: Split-level dwelling house, garage, entrance, effluent treatment system and polishing filter: Refused at appeal PL91.243948 on the grounds:

*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.*

Adjacent site to the N:

- 18/729: Dwelling, garage, entrance, effluent treatment system and all associated site works: Withdrawn.

## **5.0 Policy and Context**

### **5.1. Development Plan**

Under the Rural Settlement Strategy of the Limerick County Development Plan 2010 – 2016 (CDP), the site is shown as lying in a structurally weak area, and, under the depiction of Landscape Character Areas in this Plan, it is shown as being in the Shannon ICMZ.

### **5.2. Natural Heritage Designations**

- Askeaton Fen Complex SAC (site code 002279)

- Curraghchase Woods SAC (site code 000174)
- Lower River Shannon SAC (site code 002165)
- River Shannon and River Fergus SPA (site code 004407)

### 5.3. EIA Screening

Under Items 10(b)(i) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2018, where more than 500 dwelling units would be constructed, the need for a mandatory EIA arises. The proposal is for the development of a single dwelling house. Accordingly, it does not attract the need for a mandatory EIA. Furthermore, as this proposal would fall so far below the relevant thresholds, I conclude that, based on its nature, size, and location, there is no real likelihood of significant effects upon the environment and so the preparation of an EIAR is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

Bill Mooney of Bansha, Ashkeaton, Co. Limerick

- Concern is expressed that the proposal would lead to the appellant's well being polluted, and other wells in the vicinity.

Attention is drawn in this respect to the fractured limestone in the area and the consequent risk to ground water posed by effluent disposal systems, however highly engineered. Previous refusals have reflected this assessment, e.g. 14/621 & PL91.243948 and 18/729.

- Concern is expressed that the proposal would cause a traffic hazard.

The proposal would entail the loss of trees and scrub from the site, including in connection with the provision of sightlines. Such loss would be contrary to Objective EH06 of the CDP and to the precedent set by the previous refusal of 14/621 & PL91.243948.

## 6.2. Applicant Response

The applicant begins by drawing attention to the site's location within a structurally weak area and to the applicant's fulfilment of the local need criteria for a dwelling house in the countryside. He also draws attention to 18/729, an application which he made and withdrew, as the site was in a wooded area.

The applicant responds to the above cited grounds of appeal as follows:

- At the application stage a site assessment was undertaken, and a waste water treatment system proposed, which would incorporate secondary and tertiary stages. At the appeal stage, he has had this assessment and proposal reviewed by a hydrogeologist who concludes his resulting report as follows:  
  
Based on the results of the site characterisation assessment and assuming proper installation and maintenance of the waste water treatment system, there will be no adverse impact on the underlying bedrock aquifer and nearby domestic wells from the proposed waste water treatment and disposal system. The proposed system complies with EPA CoP, 2009. The separation distances between the proposed system and local domestic wells exceed the minimum requirements of the EPA CoP, 2009.
- The proposed site entrance would be off a straight stretch of the L6018 and it would be accompanied by sightlines of the requisite length, i.e. 90m. (Approaching traffic would have a clear view of this entrance point from 305m away, to the north, and from 208m away, to the south). The northern sightline can be achieved within the confines of the site and the southern one can be achieved by lowering a boundary wall, which the landowner concerned has consented to.
- The proposal would not entail the removal of trees or scrub form within the site.
- Attention is drawn to other examples of dwelling houses in the surrounding area that have been permitted without raising pollution concerns, e.g. 15/469, 15/889, and 18/266.

### 6.3. **Planning Authority Response**

None

### 6.4. **Observations**

None

### 6.5. **Further Responses**

None

## 7.0 **Assessment**

7.1. I have reviewed the proposal under the National Planning Framework, the Sustainable Rural Housing Guidelines, the Limerick County Development Plan 2010 – 2016, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that the current application/appeal should be assessed under the following headings:

- (i) Rural Settlement Policy,
- (ii) Amenity,
- (iii) Traffic, access, and parking,
- (iv) Water, and
- (v) Stage 1 Screening for Appropriate Assessment.

### **(i) Rural Settlement Policy**

7.2. National mapping of rural area types, which was undertaken as part of the original National Spatial Strategy, shows the site as lying within an area under strong urban influence from Limerick City. Under National Policy Objective (NPO) 19 of the National Planning Framework (NPF) states the following:

*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.*

The accompanying commentary cites Note 34 of the NPF, which states that “The standardised EU/OECD definition of city region is where 15% of the workforce is employed in the principal city area. When this is mapped, it defines a city region commuting catchment, or functional area.” By contrast, Map No. 3.2 of the CDP shows the site as lying within a structurally weak area to the east of Askeaton.

- 7.3. In the light of the foregoing paragraph, I consider that the national designation should take precedence over the CDP’s designation and so the stricter criteria for local need assessment set out in NPO 19 is of relevance in this case.
- 7.4. The applicant has completed Part 2 of the Planning Authority’s Supplementary Application Form. Accordingly, he has indicated that his existing place of residence is in Askeaton with his parents, where he has resided since his birth. Accordingly, the impetus for the current proposal is that he needs to make a home of his own. He has also indicated that his principal occupation is that of an engineer and that his place of current employment is in Cork.
- 7.5. The applicant has submitted the following documentary evidence, by way of support for his application:
- A copy of his birth certificate from October 1979,
  - A letter from his bank to his current address dated 7<sup>th</sup> June 2018, and
  - A letter from the Principal of Askeaton Junior National School stating that he was enrolled therein on 3<sup>rd</sup> September 1984.
- 7.6. Under Map 2.1 of the CP, Askeaton is identified as a Tier 3 centre on a transport corridor, i.e. N59. The applicant, however, appears to reside in a rural area to the west of this centre.
- 7.7. Under NPO 19, applicants for one-off dwelling houses in rural areas under urban influence need to establish that they have a “demonstrable economic or social need to live in a rural area”. From the evidence before me, the current applicant works in Cork and resides at home with his parents. The impetus for the proposed one-off dwelling house is his quest to make a home of his own. This evidence fails to

demonstrate that he has either an economic need to reside in the locality of the site or a social need to do so.

- 7.8. I, therefore, conclude that the applicant has failed to demonstrate that, under NPO 19, he is a candidate for a one-off dwelling house on the subject site.

**(ii) Amenity**

- 7.9. The Planning Authority's Conservation Officer advises that the site lies within the Demesne of Castle Hewson, a building entered in the NIAH (reg. no. 21901106) as being of regional significance. He does not object to the proposal in principle, but considers that in conjunction with it, works should be undertaken to the Castle. He also critiques the design of the proposal on the grounds that it would be too suburban.
- 7.10. During my site visit, I observed that Castle Hewson lies 0.6 km to the south west of the site and that between the two lies an expanse of woodland, which effectively screens the one from the other. Accordingly, there would be no discernible relationship between the two buildings and so, in these circumstances, it would be difficult to justify the linkage that the Conservation Officer advocates.
- 7.11. Turning to the suburban critique of the proposal, Table 10.2 of the CDP sets out Design Guidelines for Residential Areas, which refer to the Planning Authority's "Rural Design Advice for Individual Houses in the Countryside." This Advice seeks to ensure that the design of one-off dwelling houses respects the County's vernacular traditions. A key message is thus that simple forms should be used in the design of one-off dwelling houses.
- 7.12. A comparison of the submitted plans for the proposed dwelling house indicates an inconsistency between sheet 1 and 2 of drawing no. 18-PL-1096, insofar as end elevation no. 1 is shown as being north facing in the former and south facing in the latter. A comparison of the submitted elevations also indicates that the two chimney heights have not been depicted as being of consistent height. Clarification, in these respects, is needed.
- 7.13. The principal elevation of the proposed dwelling house would be symmetrical. It would comprise two major gabled elements and a minor central one. Bargeboards would be used to highlight these gables. The rear elevation would be asymmetrical as a result of the stepdown in form resulting from the above cited single storey

portion of the dwelling house. A further three gabled elements, highlighted by bargeboards, would feature on this elevation. The elevations would be finished throughout in a sand/cement plaster, apart from the central recessed portion of the principal elevation, which would be finished in rubble stone.

- 7.14. The above cited design would be complex and involved. It would fail to reflect the simplicity message of the Planning Authority's Rural Design Advice. The finishes to the principal elevation would fail to emphasize the projecting features by specifying the superior finish to them.
- 7.15. The siting of the proposed dwelling house would be such that the principal elevation would address the local road, albeit the retention of woodlands in the north eastern quadrant of the site would limit its profile from along this road. The southern side elevation would have a higher profile within views that would be available to traffic heading north along the local road. Tree planting along the southern boundary of the site could assist in softening both profiles.
- 7.16. The dwelling house would provide four-bedroom accommodation over a floorspace of 314.1 sqm and it would be served by an extensive curtilage that would afford the opportunity for private outdoor space. I, therefore, consider that this dwelling house would provide a more than adequate standard of amenity to future occupiers.
- 7.17. I conclude that the design of the proposed dwelling house would fail to reflect the Planning Authority's "Rural Design Advice for Individual Houses in the Countryside" and so it would be contrary to Table 10.2 of the CDP.

**(iii) Traffic, access, and parking**

- 7.18. The proposal would entail a net increase in the traffic generated by the site as the farmland use of the site would change to a residential one. The woodland use of this site would be maintained.
- 7.19. A new access off the local road would be formed in the south eastern corner of the site. This access would be laid out by means of conventional splayed walls. No gates are shown on the site layout plan. The accompanying visibility splays would have x and y dimensions of 2.4m and 90m and the portion of the local road affected would be of straight alignment.

- 7.20. The appellant has expressed concern that the achievement of the said splays would entail the removal of trees and scrub from the roadside and so be contrary to Objective EH06 of the CDP and the Board's refusal of PL91.243948.
- 7.21. The applicant has responded by stating that the northern sightline would be provided within the confines of the site and the southern sightline which would entail the setting back of the field boundary, would be provided with the landowner's consent.
- 7.22. During my site visit, I observed that there is a roadside verge that would assist in the provision of the requisite visibility splays. I also observed that the provision of the former splay would entail a minor loss of trees and scrub, but only from the edge of the woodland and so trees and scrub would continue to present to the roadside, and the provision of the latter splay would entail the partial re-siting of the earthen field boundary and vegetation into the adjoining field. In these circumstances, I do not consider that the above cited Objective, which opposes the removal of substantial lengths of roadside boundaries, would be contravened.
- 7.23. The applicant proposes to construct a substantial garage and to surface a considerable portion of the site for hardstanding and circulation purposes. There would thus be ample scope for parking.
- 7.24. I conclude that the traffic generated by the proposal would be capable of being accommodated on the local road and that the proposed new access from this road and accompanying visibility splays would be satisfactory from a road safety perspective.

#### **(iv) Water**

- 7.25. The proposed dwelling house would be served by a new well that would be sunk in the eastern portion of the site in the woodland area. This dwelling house would also be served by drainage arrangements: Thus, for the purposes of foul water, a waste water treatment system (WWTS) would be installed in the south western corner of the site, and, for the purposes of surface water, soakaways would be installed adjacent to the principal elevation of the dwelling house and beside the freestanding garage.
- 7.26. The appellant resides at Bansha to the east of the subject site. He expresses concern that the discharge from the proposed WWTS would lead to the pollution of his and other private wells in the vicinity of this site. In this respect, he draws

attention to the fractured limestone in the area and the consequent risk that the said discharge would pollute ground water however highly engineered the WWTS is. The Board's refusal of PL91.243948 gave expression to this concern on a comparable site.

- 7.27. The applicant has responded by drawing attention to the site characterisation assessment that he undertook and the resulting recommendation that a packaged waste water treatment unit (Bison Asp6 or similar) and polishing filter (Ecoflo Coco Filter with an area of 90 sqm) be installed. He also draws attention to the review of this assessment that was undertaken by a hydrogeologist at the appeal stage and his endorsement of the said recommendation. The hydrogeologist concludes that, subject to proper installation and maintenance, there would be "no adverse impact on the underlying bedrock aquifer and nearby domestic wells from the proposed waste water treatment and disposal system."
- 7.28. I note that the site previously considered by the Board was on the opposite side of the local road from the current site. I note too that local conditions with respect to water do not appear to have changed in the intervening period, i.e. since 2014.
- 7.29. The submitted site characterisation assessment acknowledges that the aquifer under the site is of regional importance and that its vulnerability is extreme. The groundwater protection response is R2<sub>2</sub> and so, under the EPA's relevant Code of Practice (2009), WWTSs are acceptable subject to normal good practice. As fractured cobbled limestone exists at depths of 1.9m, a secondary system is needed with a minimum depth of 1.2m of unsaturated soil/sub-soil with P/T values between 3 and 75 underneath the invert of the polishing filter. The hydrogeologist's report comments on the said limestone to the effect that it is "susceptible to dissolution by water, and where fractures or cracks have been widened by this process they are able to easily permit the flow of water through the rock."
- 7.30. The submitted site layout plan shows that the proposed tertiary treatment polishing filter would be sited 50m away from the proposed up-gradient private well. (The hydrogeologist's report states that the appellant's well would be c. 175m away and other wells would be further away again). The submitted percolation section shows bedrock at 1.1m below ground level and sandy clay to a depth of 1.2m below a

raised percolation area. I am unable to reconcile this section with the corresponding information in the site characterisation assessment.

- 7.31. The Sustainable Rural Housing (SRH) Guidelines advise on water quality. They state that the key to protecting water quality is “to ensure that new development is guided towards sites where acceptable waste water treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities, for example sites...where groundwater is particularly vulnerable to contamination.”
- 7.32. As with the neighbouring site that the Board considered under PL91.243948, I am concerned that the current proposal would rely on an engineered solution to the inherent problem posed by the combination of the underlying fractured limestone and a regional important and extremely vulnerable aquifer. In the light of the advice of the SRH Guidelines, cited above, I do not consider that the potential risk to water quality posed by the proposal on the subject site should be entertained.
- 7.33. The OPW’s flood information website does not show the site as being the subject of any identifiable flood risk.
- 7.34. I conclude that the site conditions make it inherently problematic to develop from a water quality perspective and so, in the light of advice in the SRH Guidelines, a precautionary approach is justified and objection to the proposal is warranted.

**(v) Stage 1 Screening for Appropriate Assessment**

- 7.35. The site is not in a Natura 2000 site. The nearest such sites are the Askeaton Fen Complex SAC to the north and south, the Curraghchase Woods SAC to the south east, the Lower River Shannon SAC to the north, and the River Shannon and River Fergus SPA to the north. I am not aware of any source/pathway/receptor routes between this site and these Natura 2000 sites and so I consider that its development, as proposed, would be unlikely to have any significant effect upon their conservation objectives.
- 7.36. Having regard to the nature and scale of the proposal and the nature of the receiving environment, no Appropriate Assessment issues arise, and it is not considered that the proposal would 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. That permission be refused.

## 9.0 Reasons and Considerations

1. The site of the proposal is located within an “Area Under Strong Urban Influence” as set out in the Sustainable Rural Housing Guidelines. In addition, under National Policy Objective 19 of the National Planning Framework, it is national policy to facilitate the provision of single housing in the countryside, in areas under urban influence, based on the core consideration of demonstrable economic or social need to live in a rural area and having regard to siting and design criteria and the viability of smaller towns and rural settlements.

Having regard to the location of the subject site, within the catchment of Limerick City and proximate to smaller settlements, and also having regard to the documentation submitted with the application, specifically, concerning the applicant’s work, which is not an agricultural based activity, and his place of employment in Cork, the Board is not satisfied that the applicant has demonstrated an economic and social need to live at this specific rural location, or that the applicant’s housing needs could not be satisfactorily met in a smaller town or settlement.

Accordingly, to permit this proposal, in these circumstances, would contravene National Policy Objective 19 of the National Planning Framework and so be contrary to the proper planning and sustainable development of the area.

2. Having regard to the design of the proposed dwelling house, which would comprise highlighted gables to its front and rear elevations and single and two-storey built forms across its rear portion, and having regard, too, to the citation of the Planning Authority’s “Rural Design Advice for Individual Houses in the Countryside” under Table 10.2 of the Limerick County Development Plan 2010 – 2016, it is considered that this design would be unduly complex and involved and, as such, contrary to the said Advice. Thus, to permit this dwelling house would contravene Table 10.2 of the Development Plan and be seriously injurious to the visual amenities of the area. It would, therefore, be contrary to the proper planning and sustainable development of the area.

3. Having regard to the site conditions that entail the presence of fractured limestone at shallow levels and an aquifer of regional importance and extreme vulnerability, and having regard, too, to the advice on water quality contained in the Sustainable Rural Housing Guidelines, it is considered that the proposed reliance upon a highly engineered waste water treatment system to service the proposed dwelling house would not be sufficient to overcome the risk to water quality that would be posed thereby. Accordingly, the proposal would pose an unnecessary risk of pollution and a corresponding loss of water quality that would be prejudicial to public health and, as such, it would be contrary to the proper planning and sustainable development of the area.

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Hugh D. Morrison  
Planning Inspector

13<sup>th</sup> November 2019