



An
Bord
Pleanála

Inspector's Report ABP-306745-20

Development	Raising the ground level of a field
Location	Stradbally North, Castleconnell, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	19/207
Applicant(s)	Kenneth T. Griffin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Kenneth T. Griffin
Date of Site Inspection	3 rd June, 2020
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The site of the proposed development is located to the south of the village of Castleconnel in County Limerick. It lies to the north of a local road and comprises an agricultural field that is lowlying and relatively flat. It is bounded by trees and hedgerow. Castlerock housing estate is located to the north-east while housing is located a short distance to the west on the approach to the village centre. The site is bounded to the north, east and west by agricultural lands. Further agricultural lands lie on the opposite side of the local road to the south.

2.0 Proposed Development

2.1. The proposed development would comprise the raising of the ground level of the 1.77 hectare field by 1.8 metres using inert building rubble and subsoil. The development would be subject to a waste licence. The development is intended to take the land above current predicted flood levels. It is estimated that it would take approximately 2000 truckloads of material to raise the field to the proposed level.

3.0 Planning Authority Decision

3.1. Decision

On 7th February 2020, Limerick City & County Council decided to refuse permission for the proposed development for one reason relating to the development being contrary to County Development Plan Objective IN 035 to minimise the threat and consequences of flooding.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted the site's planning history and the reports received. It was submitted that the majority of the site is within Flood Zone A. The considerations of the Operations and Maintenance and Physical Development sections were acknowledged. A refusal of permission was recommended based on their considerations.

3.2.2. Other Technical Reports

The Archaeologist recommended the attachment of a condition if the development is to proceed.

The Physical Development Department objected to the proposal because the site is shown to be within the current CFRAMS Fluvial Flood Zones A and B extents due to a direct flowpath/backflow from the Stradbally East stream and connectivity with the Shannon River, the requirement of Flood Risk Management Guidelines to ensure that the conveyance and storage of flood water is proactively managed and that it is not acceptable to transfer flood risk elsewhere, and because the development was premature pending investigations, detailed design and the delivery of the CFRAM Phase II Programme appropriate to the flood risk within the area.

The Operations and Maintenance Services Section considered the proposal premature pending the results of a Preliminary Flood Defence Study for Castleconnell. It was further submitted that the proposal has the potential to interfere with existing drainage on the site, potentially affecting Castlerock Development and the public road. It was noted that there are existing flooding issues on the public road at/near the site.

The Environment Services Section noted a waste facility permit or certificate of registration is required to be obtained from the local authority and that the waste authorisation must be issued by the Council prior to the importation of waste material to the property.

4.0 Planning History

P.A. Ref. 02/1590

Permission was refused for a nursing home and 20 housing units.

5.0 Policy Context

5.1. Castleconnell Local Area Plan

Zoning

The site is zoned 'Agriculture'. The Plan states that the purpose of this zoning is to provide for the development of agriculture by ensuring the retention of agricultural uses, protect them from urban sprawl and ribbon development and to provide for a clear physical demarcation to the adjoining built up areas.

Flooding

The Predictive Flood Zone Map in the Plan shows the site as being within 'Predictive Flood Zone A'. The Plan states that the LAP designated most lands located in Flood Zone A as open space or agricultural use, the only exception being an area of land in the existing Castlerock housing estate, the majority of which has been raised substantially.

The objective applicable to flooding is as follows:

Objective IN 4: Flood Risk Management

It is an objective of the Council to:

a) Implement the recommendations of the Department of the Environment, Heritage and Local Government and the Office of Public Works Guidelines on 'The Planning System and Flood Risk Management Guidance Documents (November 2009) ', and any subsequent guidelines.

b) Require any development proposal in a location identified as being subject to flooding to:

1. Carry out a flood risk / catchment analysis for the development to assess the likely level of flood hazard that may affect the site to the satisfaction of the Council;

2. Design the development to avoid minimum flood levels, incorporating building design measures and materials to assist evacuation and minimize damage to property from flood waters;

3. Demonstrate that the proposal will not result in increased risk of flooding elsewhere, restrict flow across floodplains, where compensatory storage / storm water retention measures shall be provided on site and will not alter the hydrological regime up stream or downstream or at the development location so as to pose an additional flood risk or to increase flood risk;

4. Proposals should have provision to reduce the rate and quantity of runoff i.e. minimisation of concrete surfaces and use of semi permeable materials and include adequate measures to cope with the flood risk, e.g. sustainable drainage systems.

- c) Have regard to the Office of Public Works Planning Policy Guidance in the design and consideration of development proposals; and
- d) Preserve riparian strips free of development and ensure adequate width to permit access for river maintenance.

All flood risk assessments should have regard to national flood hazard mapping, predicted changes in flood events resulting from climate change and the River Shannon Catchment Flood Risk and Management Plan Studies (CFRAM) when completed by the OPW and the Shannon International River Basin Management Plan. The 'development management justification test' and the 'plan - making justification test' as detailed in The Planning System and Flood Risk Guidance document will guide Council responses to development proposals in areas at moderate or high risk of flooding.

5.2. Limerick County Development Plan

Infrastructure

Flood Risk

Objectives include:

Objective IN O36: Minimise threat and consequences of flooding

It is the objective of the Council 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 Government Guidelines, 'The Planning System and Flood Risk Management' and OPW data and advice in the assessment of all development proposals and any subsequent amendments.

Objective IN O37: Manage river catchments and surface water run-off

It is the objective of the Council to assist in the sustainable management of river catchments to reduce both the quantity of water run-off and its speed and unpredictability, allow rivers to take their natural flow, and allow flooding only to occur in lower sensitivity areas.

5.3. **Appropriate Assessment**

Having regard to the nature and extent of the proposed development, its separation distance from the Lower River Shannon SAC, and the proposed intent to use inert rubble and subsoil as fill material, it is reasonable to conclude that on the basis of the information on the file, which I consider adequate in order to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on any designated European Site and a Stage 2 Appropriate Assessment and submission of a NIS is not therefore required.

5.4. **EIA Screening**

Having regard to the nature, size and location of the proposed development, there is no real likelihood of significant effects on the environment. No EIAR is required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of the appeal may be summarised as follows:

- The Council has not provided a legitimate reason for refusal, i.e. the reason for refusal incorrectly references the wrong section of the Development Plan and incorrectly refers to guidance documents on flooding.
- The site is a small field in a localised low point. Flooding at this area is largely determined by outfall levels in the River Shannon. The raising of the field will have minimal effect on flood attenuation given the area of the Shannon catchment basin.
- Raising of the ground level will improve the utility of the field and in future allow for the original use intended in the Castleconnell Local Area Plan 2001, prior to the wider issues of flooding in the Shannon River Basin. This will consolidate potential development land around the Castleconnell urban area, preventing further urban sprawl.

- Raising of the ground level has been considered in accordance with flood risk management guidelines. If the Board has reservations, the level of fill can be restricted by conditions.

6.2. **Planning Authority Response**

I have no record of any response to the appeal from the planning authority.

7.0 **Assessment**

7.1. Introduction

7.1.1 I consider that the principal issue for consideration in this assessment relates to flooding and development plan provisions.

7.2. Flooding and Development Plan Provisions

7.2.1 I note from the current Castleconnell Local Area Plan that a Stage 1 Flood Risk Assessment was prepared for the village and is included as Appendix 2 of the LAP. It is also noted that OPW preliminary flood risk indicative maps are available for Castleconnell under the OPW's CFRAM study. In reference to mapping and analysis, the Plan states that these indicate that substantial areas of land to the north east and south west of the village are located in Flood Zone A and that in this zone most development is considered vulnerable to flooding. As a response to this issue the LAP designated most lands located in Flood Zone A as open space or for agricultural use.

7.2.2 I note from the Predictive Flood Zone Map (Map 4 of the Plan) that the site is shown as being within 'Predictive Flood Zone A'. I further note from the Flood Risk Assessment in Appendix 2 that, in the current plan, 22.15ha of residential land has been de-zoned to open space or agriculture of which 16.76ha was within areas at risk of flooding as defined by the flood maps. It is stated that this source of information was not available when the last plan was prepared and that it has the effect of reducing the potential area subject to flood risk. The Assessment submits that this ensures that within the plan boundary the amount of land that has

permeable surfaces has increased, which is an important factor in reducing run off, in terms of flood risk control.

7.2.3 I note that the site of the proposed development forms part of the lands that were de-zoned to agriculture. I acknowledge that Figure 2 in the Flood Risk Assessment, relating to parts of lands de-zoned, shows the site area as being within a 'Flood Zone A' area. It is very clear that the preparation of the current Castleconnell Local Area Plan has given careful consideration to the zoning and development of this village when regard is had to the issue of flooding and the siting of the village on the edge of the River Shannon. It is also evident that, notwithstanding any previous zoning that was applicable to the appeal site under any previous plan, greater understanding on the issue of flooding has been obtained and the current plan responds to this understanding in seeking to achieve sustainable development of the village into the future. The site of the proposed development forms an integral part of the flood zone of this area. The filling of the site would clearly distort this, reducing the flood plain at this location and likely causing potential flooding issues elsewhere by displacement and/or increasing the risk elsewhere.

7.2.4 Further to the above, I note *The Planning System and Flood Risk Management: Guidelines for Planning Authorities*, published by the Department of the Environment, Heritage and Local Government in 2009. With regard to Flood Zone A, the Guidelines submit in para. 3.5 that most types of development would be considered inappropriate in this zone and that development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere. It is further stated that only water-compatible development, amenity open space, outdoor sports and recreation would be considered appropriate in this zone. The filling of this site to accommodate development of this land beyond agriculture or recreation uses would clearly run contrary to the Flood Risk Management Guidelines.

7.2.5 I also note the relevant flood risk objectives of the current Limerick County Development Plan as follows:

Objective IN O36: Minimise threat and consequences of flooding

It is the objective of the Council 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 Government Guidelines, 'The Planning System and Flood Risk Management' and OPW data and advice in the assessment of all development proposals and any subsequent amendments.

Objective IN O37: Manage river catchments and surface water run-off

It is the objective of the Council to assist in the sustainable management of river catchments to reduce both the quantity of water run-off and its speed and unpredictability, allow rivers to take their natural flow, and allow flooding only to occur in lower sensitivity areas.

7.2.6 I acknowledge that the planning authority's decision incorrectly referenced Objective IN 035 instead of Objective IN 036 in its reason for refusal. Further to this, it is evident that the filling of this site within a Flood Zone A area would not be compatible with the flooding objectives which clearly intend to seek the sustainable management of the River Shannon's catchment and which seek development proposals to adhere to the advice given in *The Planning System and Flood Risk Management: Guidelines for Planning Authorities*.

7.2.7 Further to the above, I note that the site of the proposed development is zoned 'Agriculture' and is bounded to the west by land zoned 'Agriculture' and to the east by land that is zoned 'Open Space & Recreation' in the current Castleconnell Local Area Plan. The Plan states that the purpose of the 'Agriculture' zoning is to provide for the development of agriculture by ensuring the retention of agricultural uses, protect them from urban sprawl and ribbon development, and to provide for a clear physical demarcation to the adjoining built up areas. Uses which are directly associated with agriculture or which would not interfere with this use are open for consideration. The Plan's zoning matrix indicates that residential development, commercial development, etc. is not permitted within this zone, with the exception of houses that are associated with a rural housing need. It is evident from the planning application and the appeal that the appellant seeks to fill the proposed site to

facilitate the development of the land for purposes other than agriculture, namely for uses previously accommodated under the Castleconnell Local Area Plan 2001. The proposed development, in seeking to facilitate development for other such purposes, is clearly in conflict with the zoning provisions for this site. This is not permitted development within this zone, notably with regard to the intent to which the land is then proposed to be used.

7.2.8 In conclusion, I acknowledge that the site for the proposed development forms part of an expanse of land that falls within a Flood Zone A area within Castleconnell village. The Castleconnell Local Area Plan has had due regard to a comprehensive understanding of the flooding regime in the village associated with its proximity to the River Shannon. The site of the proposed development is zoned 'Agriculture' in response to it being prone to flooding. The filling of the land to facilitate the development of this land for development purposes beyond agriculture would not be in keeping with the Plan's provisions or the sustainable development of the village into the future.

8.0 Recommendation

8.1. I recommend that permission is refused in accordance with the following reason and considerations.

9.0 Reasons and Considerations

1. The site of the proposed development is located on lands zoned 'Agriculture' in the current Castleconnell Local Area Plan with the purpose to provide for the development of agriculture by ensuring the retention of agricultural uses, protect them from urban sprawl and ribbon development, and to provide for a clear physical demarcation to the adjoining built up areas. In addition, the site forms part of an area which is located within Flood Zone A in the Plan's Predictive Flood Zone Map, an area where most development is considered vulnerable to flooding and where the land has been designated for agricultural use as a consequence. Furthermore, the objectives of the Limerick County Development Plan include minimising the threat of flooding in new development and having regard to *The Planning System and Flood Risk Management*:

Guidelines for Planning Authorities in the assessment of all development proposals (Objective IN 036), as well as assisting in the sustainable development of river catchments (Objective IN 037). The Guidelines recommend that, within Flood Zone A, most types of development are considered inappropriate and that development in this zone should be avoided and/or only considered in exceptional circumstances, such as in city and town centres, or in the case of essential infrastructure that cannot be located elsewhere.

Having regard to the zoning provisions for the site as set out in the Castleconnell Local Area Plan and the site's function as an integral part of the flood zone within the village, it is considered that the filling of the site to facilitate development of the land unrelated to agriculture and/or recreational uses would contravene the zoning provisions for the site, would conflict with the provisions of the Flood Risk Management Guidelines, and would be contrary to the objectives of the County Development Plan relating to flood risk. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Kevin Moore
Senior Planning Inspector

10th June 2020