



An  
Bord  
Pleanála

## Inspector's Report ABP-307337-20

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<b>Development</b>	House, garage and wastewater treatment plant
<b>Location</b>	Kildrodane, Ardagh, County Limerick
<b>Planning Authority</b>	Limerick City & County Council
<b>Planning Authority Reg. Ref.</b>	19/977
<b>Applicant(s)</b>	Barry Downes & Grace O'Connor
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Aidan & Elaine O'Connor
<b>Date of Site Inspection</b>	15 <sup>th</sup> July, 2020
<b>Inspector</b>	Kevin Moore

## **1.0 Site Location and Description**

- 1.1. The 0.37 hectare site is located approximately 1.5km south of the village of Ardagh in County Limerick. It comprises the western section of a wedge-shaped field. The eastern section of the field has a bungalow constructed on it (the appellants' property). It has frontage to the south onto a narrow local road. The site is bounded to the north by agricultural land and to the west by lane and a small field in which there are two national monuments. Beyond this there is a line of detached houses. There is extensive ribbon development in the immediate vicinity of this site.

## **2.0 Proposed Development**

- 2.1. The proposed development would comprise the construction of a four bedroom dormer dwelling and a detached garage to the rear. The house would have a floor area of 232.6 square metres and the garage would be 23.35 square metres in area. The development would be served by a private wastewater treatment system and a mains water supply.
- 2.2. Details submitted with the application included a site characterisation form, a design statement, a letter from the landowners permitting the making of the application, and background information on the applicant's links to the area.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 4<sup>th</sup> June 2020, Limerick City & County Council decided to grant permission for the proposed development subject to 16 conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

The Planner noted the site's planning history, development plan provisions, reports received, and the objection submitted. It was noted that there is extensive ribbon development in the area and that the road serving the site is considered substandard. It was further noted that the ribbon development in the area consists of

single-storey houses. A request for further information was recommended relating to the applicant's links to the area, a pre-connection enquiry to Irish Water, sightline details, the omission of the proposed first floor, surface water details, and a response to the third party submission.

### 3.2.2. Other Technical Reports

The Mid West Roads Design office stated that it had no observations to make.

The Environment Engineer set out a schedule of conditions to apply.

The Archaeologist stated that there are no archaeological issues in regard to the application.

The Municipal District Technician requested details on available sightlines and on protecting road drainage during construction.

### 3.3. Prescribed Bodies

Transport Infrastructure Ireland stated that it had no observations to make.

Irish Water requested the applicant to engage with the agency through the submission of a pre-connection enquiry in order to determine the feasibility of connection to its network.

### 3.4. Third Party Observations

An objection to the proposal was received from Aidan and Elaine O'Connor. The grounds of the appeal reflect the principal planning concerns raised.

The applicant submitted unsolicited information in response to the observation.

### 3.5 Further information was requested by the planning authority on 22<sup>nd</sup> November 2019 and a response was received on 5<sup>th</sup> May 2020. The reports to the planning authority following this submission were as follows:

Irish Water stated it is currently assessing feasibility of a connection and requested the attachment of conditions with any grant of permission.

The Municipal District Technician noted the further information response and requested the applicant to provide a similar site layout as that previously granted under P.A. Ref. 05/243 and to submit proposals on how it is intended to protect road drainage during construction works.

The Planner submitted that all issues had been resolved with the exception of sightlines and it was stated that this “should be adequately demonstrated as per the 05/243”. A grant of permission subject to a schedule of conditions was recommended.

## 4.0 **Planning History**

### P.A. Ref. 05/2430

Permission was granted for a single storey house and septic tank.

## 5.0 **Policy Context**

### 5.1. **Limerick County Development Plan**

#### Rural Settlement

The site is located in an area designated an ‘Area of Strong Agricultural Base’. The Plan states that these areas traditionally have had a strong agricultural base, are restructuring to cope with changes in the agricultural sector and have an extensive network of smaller rural towns, villages and other settlements. In these areas, the focus of urban generated housing is to be in the network of settlements to support the development of services and infrastructure and to take pressure off development in the open countryside.

The Council recognises the needs of local rural people who wish to live or work in the area in which they grew up. The following 3 criteria arise in assessing applicants under this category:

1. The applicant must come within the definition of a ‘Local Rural Person’  
and
2. The proposed site must be situated within their ‘Local Rural Area’  
and

3. The applicant must have a 'Local Rural Housing Need'.

a) A 'Local Rural Person' is a person who is living or has lived in the local rural area for a minimum of 10 years prior to making the planning application. This includes returning emigrants seeking a permanent home in their local rural area.

b) The 'Local Rural Area' for the purpose of this policy is defined as the area generally, but not exclusively, within a 10km radius of the applicant's family home. Where the applicant is located less than 10km from the County boundary the land mass available will be 314km<sup>2</sup>. Where the proposed site is of a greater distance but the applicant can demonstrate strong ties with the area of the proposed site, e.g. strong family, landownership, or employment links or being within the same parish as the applicant is from, then these cases and other exceptional circumstances will each be considered on their individual merits. A local rural person excludes those persons from within Tier 1 of the County Settlement Hierarchy and the Tier 2 town of Newcastle West.

c) 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 10km of the applicant's family home.

d) An applicant who satisfies a 'Local Rural Housing Need' is defined as a person who does not or has never owned a house in the 'local rural area' and has the need for a permanent dwelling for their own use in the rural area.

Objectives include the following:

***Objective RS O2: Single Houses in Area of strong agricultural base***

It is an objective to recognise the individual housing needs of people intrinsic to the rural area located within the rural areas defined as the '*areas of strong agricultural base*'. Such needs may be accommodated on lands outside of the '*Rural Area Under Strong Urban Influence*' subject to the availability of a suitable site and normal proper planning and sustainable development criteria.

It is an objective of the Council to permit single houses in the area of strong agricultural base to facilitate those with a *genuine rural housing need* in the area. In order to demonstrate a genuine rural housing need, any of the following criteria should be met:

- (a) the application is being made by a long term landowner or his/her son or daughter 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 persons own use; or
- (c) the applicant is working in essential rural activities and for this reason needs to be accommodated near their place of work; or
- (d) the application is being made by a local rural person(s) who for family and/or work reasons wish to live in the local rural area in which they have spent a substantial period of their lives (minimum 10 years) and are seeking to build their first home in the local rural area.

## 5.2. **Appropriate Assessment**

The site is not on, in or near any European site. 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.

## 5.3. **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 proposal will have six windows looking directly into the appellants' home and the 22m separation distance afforded to urban residential development is not provided for.
- The scale and orientation of the proposal eradicates any visual and light amenity to the west of the appellants' property, protruding 10m in front of the appellants' building line and 15m behind their rear building line contrary to development plan provisions.
- The current boundary between the sites is open and exposed. The proposed screening would only be effective for half the year and may take 10 to 15 years to mature, with mature trees having further significant overshadowing effects.
- Reference is made to misrepresentation of the location of the appellants' house on the application drawings in an attempt to reduce the impacts.
- The proposal does not meet with the Development Plan's rural settlement policy and the Rural Housing Guidelines and it will exacerbate existing ribbon development along the road.
- The lack of sightlines for the proposed development will be a significant traffic hazard. The available sightlines are considerably less than that stated in the further information. Moving the entrance to the centre of the site would further exacerbate the issue and would reduce the sightlines to the east.

### 6.2. Applicant Response

The applicants' response to the appeal may be summarised as follows:

- The applicants have obtained planning permission on the site for the second time. Barry Downes was born and raised on this road and it is his family landholding. It is the intention to construct a family home and to be in close

proximity to his parents to look after them in their older years. The site would have been developed earlier but for the economic crash. The applicants moved to Australia for work and were to return home to construct their family home.

- The applicants went through the proposal with the appellants before seeking permission.
- With regard to overlooking, windows on the ground floor are not regarded as overlooking. The windows on the side elevation range from 14.7m to 19.6m from the nearest part of the appellants' house and views are impeded by the objectors' block wall. The appellants' house has four windows facing the site. The 22m separation distance referenced is for urban residential development.
- The design of the house, layout of rooms and provision of windows has been done to take into consideration the neighbouring property.
- The appellants have a large retaining wall unplastered at the applicants' side and the applicants have no choice but to landscape this boundary and will be done so with beech hedging.
- With reference to drawings, revised drawings cleared up this matter.
- Regarding rural settlement policy, the applicant complies with all points raised within Section 3.9 of the Development Plan.
- With regard to ribbon development, it is the sixth house within a 250m, section of road. However, it is an infill site, thus not adding to ribbon development. A previous permission existed on the site and the lands are family lands.
- Sightlines of 77m are available to the west as there is substantial distance between the road edge and boundary ditch. The applicant will keep the sight triangle free from vegetation. To the east, sightlines are shown to the centre of the road and this has been done as the road is so narrow that any oncoming car will be in the road centre. It is believed that the ambient traffic speed for this road is 50kph. The road is lightly trafficked. Based on the low traffic speed and low traffic volumes, the available sightlines are acceptable. One must consider that the proposed site is located between two existing



entrances, a domestic entrance and an agricultural entrance which is used on a constant daily basis.

### 6.3. **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 planning issues requiring assessment are rural housing need, ribbon development, traffic impact, and impact on residential amenity.

### 7.2. Rural Housing Need

7.2.1 The proposed development would be located in an area designated in the Limerick County Development Plan as an 'Area of strong agricultural base'. Objective RS 02 of the Plan recognises the individual housing needs of people intrinsic to the rural area located within the rural areas defined as the '*areas of strong agricultural base*'. Single houses may be permitted in such an area for those with a genuine rural housing need. Such a need can be met by the application being made by a long-term landowner or his/her son or daughter seeking to build their first home on family lands, where an applicant is engaged in working the family farm, where the applicant is working in essential rural activities and needs to be near their place of work, or where the applicant is 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.

7.2.2 In acknowledging the designation of this area as an 'Area of strong agricultural base', I must impress upon the Board the extent of one-off housing in this rural area. Being a short distance from Newcastle West, it is clearly an area that is under significant urban-generated development pressure for housing and it may be

reasonable to ascertain that much of this housing is not related to the primary land use of this area, i.e. agriculture.

7.2.3 The applicant Barry Downes has submitted in the application that he is obtaining the site from his parents, that he resides at present in Australia, and that he is a local rural person who was raised in the area. Details in support of his submission included a copy of a birth certificate, a letter from a local national school, bank details, and a letter from the applicants explaining their intention to return home and build a home near their families. I further note that the site location map with the application outlined in blue a 0.72 hectare plot of land to the west of the site. In response to the planning authority's further information request the applicants indicated the location of the applicant Barry Downes family home where he resided initially for 13 years and the current family home relative to the appeal site. Land Registry details of this parents 0.3998 hectare plot are provided.

7.2.4 While it can reasonably be accepted that the applicant grew up and spent his childhood years in this area, it is apparent from the details submitted in the application and appeal response that the applicants have no 'rural housing need' to reside at this location. Acknowledging they would be returning emigrants, it is clear that they would not work in or have any attachment to farming or agricultural-related activities at this rural location. There is no 'rural generated housing need' associated with the proposed development.

7.2.5 It is apparent that, based on the applicants' submission on need, this proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, as the appellant has no genuine 'rural' housing need within an area of the county that is under significant development pressure for one-off housing, one that is succumbing to such strong pressure for housing. The applicants' housing needs could clearly be met within the nearby town of Newcastle West or villages in the area.

7.2.6 Further to the above guidance, I note national planning policy as set out under the *National Planning Framework* published in February, 2018. This includes the following:

- With reference to the development of rural areas, National Policy Objective 15 seeks to support the sustainable development of rural areas by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.
- National Policy Objective 19 seeks to 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, it is policy to 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.

7.2.7 From the details on the appeal file, it is clear that the applicants do not have any justification that would merit permitting the development of a house on this site. There is no demonstrable economic or social need for the applicants to have a house at this location. The proposal would, thus, be in conflict with the National Planning Framework.

### 7.3. Ribbon Development

7.3.1 There is extensive ribbon development in the immediate vicinity of the site. The applicants, in the response to the appeal, acknowledge this, observing that the proposed development would be the sixth house within a 250m section of roadway. The applicants contend that it is an infill site and thus would not add to ribbon development. I submit that it is evident that the proposal would constitute development that would add to the expanse of ribbon development at this location, whether infilling space between established houses or extending the ribbon further.

7.3.2 I note the provisions of *Sustainable Rural Housing Guidelines for Planning Authorities*. Appendix 4 recommends against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts. In characterising such development

reference is made to “a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage”. It is clear that the further expansion of ribbon development arising from the proposed development would not be in keeping with the provisions of the Guidelines as they relate to ribbon development.

#### 7.4. Traffic Impact

7.4.1 The site for the proposed development is located on a local road where the horizontal alignment of the road is poor. As a result, sightlines are significantly restricted in both directions from the frontage of the proposed site. This has been ably demonstrated by the applicants’ submissions to the planning authority. 90 metre sightlines cannot be attained due to the poor alignment and established boundaries flanking the site. The latter would require alteration in order to improve the poor sightline availability and are beyond the control of the applicants.

7.4.2 The adverse traffic impact that arises from poor available sightlines is compounded by the narrow local road onto which the proposed development seeks to access. This road is particularly narrow and does not safely accommodate two-way vehicular traffic over sections in the vicinity of this site and beyond. This again is acknowledged by the applicants in the response to the appeal, whereby it is noted that:

*“To the east we have indicated the sightlines to the centre of the road this has been done as the road width is so narrow that any oncoming car will be in the road centre in any event.”*

7.4.3 It is evident that the existing road is inadequate in width to accommodate two-way car traffic and, as a result, further housing development along this road will add to the volumes of vehicular traffic on this substandard road and will impede the free flow of traffic on this road, particularly the traffic associated with the principal land use in this area, namely agriculture.

7.4.4 Overall, it may reasonably be concluded that the inadequate available sightlines, the poor horizontal alignment of the local road, and the substandard and narrow nature

of the local road would result in the proposed development constituting a traffic hazard.

## 7.5. Impact on Residential Amenity

7.5.1 I submit that there is no concern arising from the potential impact of the proposed development relating to overlooking of the appellants' property or relating to any other interference with the amenities of the established property to the east. I first acknowledge the block wall forming part of the flank boundary that has been constructed on the appellants' property which would substantially impede overlooking between these properties. Further to this, I am satisfied that appropriate fencing and/or a landscaping plan, that would include tree and shrub planting along the east flank of the site, would eliminate any potential for overlooking between windows in opposing gable elevations in the proposed and existing houses. Finally, I must acknowledge that the appellants' have no planning entitlement to the maintenance and retention of any private views they may have westwards over the appellants' site and beyond.

## 8.0 **Recommendation**

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

## 9.0 **Reasons and Considerations**

1. Having regard to the location of the site in a rural area within an 'Area of strong agricultural base', as designated in the Limerick County Development Plan, to the expense of one-off housing and the prevailing pattern of ribbon development, and having regard to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and the National Policy Objectives of the National Planning Framework, which seek to manage the growth of areas that are under strong urban influence to avoid over-development and to ensure that the provision of single houses in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area, it is considered that the applicants do not come within the scope of the

housing need criteria as set out in the Rural Housing Guidelines for a house at this rural location and do not comply with National Policy Objectives. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area, would exacerbate the pattern of ribbon development, and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, thus, be contrary to the provisions of the *Sustainable Rural Housing Guidelines for Planning Authorities* and rural policy provisions of the *National Planning Framework*, and would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the poor horizontal alignment of the local road at this location, the substandard, restricted width of this road, and the limited available sightlines at the site frontage, it is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements it would generate.

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Kevin Moore  
Senior Planning Inspector

31<sup>st</sup> August, 2020