



An  
Bord  
Pleanála

## Inspector's Report

### ABP-307981-20

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| <b>Development</b>                  | A single storey dwelling house, garage, onsite treatment system and percolation area, new entrance, well and associated site works |
| <b>Location</b>                     | Blossomhill, Kilcornan, Co. Limerick   |
| <b>Planning Authority</b>           | Limerick City and County Council   |
| <b>Planning Authority Reg. Ref.</b> | 20111  |
| <b>Applicant(s)</b>                 | Martin Kiely   |
| <b>Type of Application</b>          | Permission.  |
| <b>Planning Authority Decision</b>  | Grant Permission with conditions.  |
| <b>Type of Appeal</b>               | Third Party  |
| <b>Appellant(s)</b>                 | Neil Rushe.  |
| <b>Observer(s)</b>                  | None.  |
| <b>Date of Site Inspection</b>      | 22 October 2020.   |
| <b>Inspector</b>                    | Bríd Maxwell   |

## 1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Blossomhill approximately 300m south of the N69 and approximately 16km to the southwest of Limerick City. The site is within a rural agricultural area with a scattered pattern of one-off housing development. The appeal site is roughly rectangular in shape and has a stated area of 0.347 hectares comprising part of a larger open agricultural field which a gentle slope from southeast to north and west. The front / eastern roadside boundary of the site with the public road comprises a sod and stonewall ditch. There is an existing vehicular access to the site from the local road. There is a single storey dwelling to the south with a mature hedgerow along its intervening boundary. There are three dwellings in ribbon development pattern opposite to the east of the site.

## 2.0 Proposed Development

- 2.1. The application as set out involves permission for a single storey dwelling house, garage, onsite treatment system and percolation area, new entrance, well and associated site works.
- 2.2. The proposed dwelling is single storey in design with a ridge height of 6.8m with render finish dark blue slate and selected local stone to the front of the house. Three gable breakfronts are provided to the front elevation and two to rear. Solar panels are proposed to rear roofplane with rooflights to rear attic storage space. The proposed site boundaries are to be planted with double row of native hedging species. Proposed dwelling is to be served by a wastewater treatment plant and well.

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1 By order dated 24<sup>th</sup> July 2020 Limerick City and County Council issued notification of the decision to grant permission and 15 conditions were attached.

Condition 2 Development contribution €5,078.40

Condition 3. Occupancy clause.

## 3.2. Planning Authority Reports

### 3.2.1. Planning Reports

Initial planner's report sought additional information to demonstrate a need to build a house in this rural area. Final report considers that applicant has outlined a rural housing need and recommends permission subject to conditions.

### 3.2.2. Other Technical Reports

Operations and Maintenance Services. No objection subject to installation of onsite treatment system by a suitably qualified person.

Executive Engineer Roads considers that sightlines are acceptable. No objection subject to conditions including prevention of surface water run-off onto the roadway.

## 3.3. Prescribed Bodies

No submissions

## 3.4. Third Party Observations

3.4.1 Submissions from Neil Rushe, Blossomhill neighbour to the south of the appeal site assert that site notice was not displayed on the site for the requisite period.

Opposition to the development is outlined. Previous grounds of refusal by the Board have not been overcome. Area is overdeveloped and under significant development pressure. Entrance opened on the site December 2018 without permission and this should be regularised. Site layout map is inaccurate and sightlines are inadequate.

## 4.0 Planning History

**ABP304678 19/296** The Board overturned the decision of the Planning Authority following third party appeal of permission for single storey dwelling house garage onsite treatment system and percolation area new entrance well and associated site works. Refused on grounds of housing need in the context of National Policy Objective 19.

**10/969** Permission granted 2011 to alter the design of a house approved under Ref 07/2437 and ref 09/378

**09/378** Permission granted in 2009 to alter the design of a house approved under reg ref 07/2437 and to construct a domestic garage.

**07/2437** Permission granted in 2007 to construct a house with wastewater treatment system. **12/7081 Application for** Extension of duration of 07/2437 (Decision details have not been provided and are not available on website

<http://eplan.limerick.ie/AppFileRefDetails/127081/>

**005/356** Outline permission for construction of a dwellinghouse septic tank percolation area, front entrance, boundary with and all associated site works. Granted 7/4/2005

## 5.0 Policy Context

### 5.1. National Planning Framework.

**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 spatial 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.

#### **Sustainable Rural Housing Guidelines.**

The guidelines require a distinction to be made between 'Urban Generated' and 'Rural Generated' housing need. The site falls within an area under strong urban influence in terms of the NSS Rural Area Types where the guidelines provide that the key development plan objectives in these areas should be to on the one hand to

facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan.

## 5.2. **Development Plan**

Limerick County Development Plan 2010-2015 (as extended)

The site is located in an “Area of Strong Agricultural Base”

Policy RS 02 It is an objective to recognise the housing need of people intrinsic to the rural local area subject to applicants demonstrating that their proposal complies with a genuine housing need.

Policy RS02 : 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 built 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.

Objective RS 08. Occupancy condition.

Objective IN 035 Wastewater treatment systems.

Section 10.4 Design statement.

## 5.3. **Natural Heritage Designations**

The site is circa 450m east of Curraghchase Woods SAC (Site Code 000174)

#### 5.4. EIA Screening

Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental assessment can therefore be excluded at preliminary examination.

### 6.0 The Appeal

#### 6.1. Grounds of Appeal

The appeal is submitted by Neil Rushe, Blossomhill neighbouring resident to the south of the site. Grounds of appeal are summarised as follows:

- Negative impact on appellant's dwelling.
- Area is under significant development pressure and is overdeveloped.
- No basis for overturning previous decision of the Board.
- Site notice was not erected during the required period of time.
- Sight line drawings incorrect and sightlines are inadequate,
- Unauthorised entrance installed on the site mid December 2018.
- Excessive concentration of septic tanks. Contamination risk to well.
- Building is within 2m of the northern boundary which is an inadequate distance with no provision for stock proof fencing.
- Documentation submitted is conflicting and cannot be relied upon.
- Given ownership of a dwelling in the adjacent village of Kildimo cannot satisfy Objective RS02.
- Ribbon development.
- Applicant does not own the site. Land registry folio details supplied.

## 6.2. Applicant Response

The response on behalf of the first party by Morgan McDonagh Architectural and Planning Consultants is summarised as follows:

- The site was originally sold by Mrs Maura Rushe mother of the appellant.
- Site notice was erected on the site but continuously taken down and 5 separate notices were erected, and continuously removed as notified to the gardai and planning authority.
- Entrance proposed to be relocated to the northern corner of the site on the advice of Council's Roads Engineer to maximise sightlines.
- Contest assertion that a new entrance was formed on the site. There was an existing entrance on the site which was widened to cater for site test.
- Site suitability assessment demonstrates suitability to on site treatment system as recognised by Bord Inspector ABP304678.
- Boundary treatment to include planted native hedge with and deciduous trees.
- Site is owned by the applicant's wife.
- Contents of the appeal should be discounted by An Bord Pleanála
- Under the current application the applicant has submitted details outlining specific medical requirements stressing the need the applicant to live close and attend to the medical needs of his children on a daily basis.

## 6.3. Planning Authority Response

The Planning Authority did not respond to the appeal.

## 7.0 Assessment

- 7.1. Having regard to the previous decision of the Board on the site ABP-304678-19 on 17<sup>th</sup> September 2019, the key issue to be addressed within this appeal relates to the

question of whether the applicant has a genuine and demonstrable economic or social need to live in this rural area in the context of the location of the site within an area of strong agricultural base as identified in the Limerick County Development Plan 2010-2016 (as extended), and a 'Stronger Rural Area' as identified in the Sustainable Rural Housing Guidelines. This needs to be addressed having regard to National Policy Objective 19 of the National Planning Framework which aims to facilitate the provision of single housing in the countryside, based on the viability of smaller towns and rural settlements. I am satisfied that no other substantial planning issues arise. I note that the third party appellant has outlined that the site notice was not displayed on the site for the requisite period. The first party within the appeal response has indicated that the site notice was subject to vandalism and was replaced by the applicant five times during the display period. It is further asserted that the alleged vandalism of the site notice was notified to the planning authority and the gardai on each occasion. I note that the planner verifies that the site notice was appropriately displayed on the date of her site inspection on 10/4 /2019. I cannot verify the circumstance of the site notice display retrospectively however based on the information provided I am satisfied that the applicant made reasonable efforts to comply with the requirements of Article 19 of the Planning and Development Regulations in terms of site notice display. As regards ownership of the site I note that the applicant has confirmed that the site is owned by his wife.

- 7.2. The applicant sets out the justification for providing a house at this location on the basis of need to locate proximate to his children's home which is within the village of Kildimo circa 5km to the east of the site. The applicant works as a self-employed journalist and his place of work varies therefore there is no economic basis for locating at the site. The first party argument relies on a social need to be close to his children and supporting documentation is provided with regard to specific health needs. I am not satisfied that this case provides a basis for a need to live at this rural location. The applicant's housing needs could clearly, perhaps more appropriately in terms of proximity, be met within the village of Kildimo or alternatively within another town or settlement in the vicinity. On this basis of the foregoing I consider that there is no basis to alter the previous decision of the Board.



7.3. As regards appropriate Assessment having regard to the nature and small scale of the proposed development and distance from the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect, individually, or in combination with other plans or projects, on a European site.

7.4. I recommend that permission be refused for the stated reason as follows:

## 8.0 Reasons

*“The subject site is located within ‘An Area of Strong Agricultural Base’ as identified in the Limerick County Development Plan, 2010-2016 (as extended), and a ‘Stronger Rural Area’ as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. Having regard to National Policy Objective 19 of the National Planning Framework which aims to facilitate the provision of single housing in the countryside, based on the viability of smaller towns and rural settlements, and taking account of the documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a genuine and demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria, as set out in national policy, for a house at this location. The proposed development would be contrary to national policy, would contribute to the encroachment of random rural development in the area, militating against the preservation of the rural environment and the efficient provision of public services and infrastructure, would negatively impact on the viability of smaller towns and villages, and would, therefore, be contrary to the proper planning and sustainable development of the area.”*

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Bríd Maxwell  
Planning Inspector

23<sup>rd</sup> October 2020