



An
Bord
Pleanála

Inspector's Report ABP-308570-20.

Development	Construct a house, garage and WWTP
Location	Glendarragh, Newcastle West, Co. Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	20/799.
Applicant(s)	Jane Scanlan.
Type of Application	Permission.
Planning Authority Decision	Refuse.
Type of Appeal	First Party
Appellant(s)	Jane Scanlan
Observer(s)	None.
Date of Site Inspection	16/07/2021.
Inspector	A. Considine.

1.0 Site Location and Description

- 1.1. The appeal site is located approximately 3km to the south-west of the town of Newcastle West in Co. Limerick. Access to the site is off the local road, the L1316 approximately 600m to the south of the N21. There is a ribbon of existing residential development to the east of the site, with 9 houses constructed.
- 1.2. The site has a stated area of 0.455 hectares and comprises part of a larger agricultural field. It is proposed to retain access to the larger field via the existing entrance to the east of the site. The site is generally flat although overgrown on the date of my site inspection. The front boundary comprises a line of trees and hedges which is already set back from the public road. There is an open drain along the grass verge to the north of the site along the public road and there was water flowing in the drain on the date of my site inspection.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the construction of a bungalow, consisting of 4 no. bedrooms, one en-suite, 2 no. bathrooms, utility room, kitchen, dining room, living room and domestic garage with packaged wastewater treatment system and polishing filter and connections to all existing services, front entrance gates and wall, all at Glendarragh, Newcastle West, Co. Limerick.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form,
 - Site Suitability Assessment
 - Evidence of housing need.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse planning permission for the proposed development for the following stated reason:

The proposed development would contribute to the already extensive ribbon development and give rise to a build up of development in this rural area which is lacking in certain services and community facilities. The proposed development, would therefore, be detrimental to the rural character of the area and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning report considered the proposed development in the context of the details submitted with the application, internal technical reports, planning history and the County Development Plan policies and objectives. The report also includes an Appropriate Assessment Screening Report.

The planning report notes that the applicant has demonstrated a housing need as defined under Objective RS02 of the CDP and that the proposed house design is acceptable. Ribbon development is raised as a concern however and the report concludes that proposed development is not acceptable in this regard. The Planning Officer recommends that permission be refused for the proposed development, for reasons relating to ribbon development.

This Planning Report formed the basis of the Planning Authority's decision to refuse planning permission.

3.2.2. Other Technical Reports

Archaeologist: No archaeological issues arise.

3.2.3. Prescribed Bodies

Irish Water: Notes no objection.

3.2.4. Third Party Submissions

None.

4.0 Planning History

The following is the relevant planning history pertaining to the subject site:

PA ref: 99/203: OPP granted for the erection of 2 houses and septic tanks.

PA ref: 99/1479: PP sought for the erection of a dormer dwelling, garage and septic tank. Application withdrawn prior to decision.

PA ref: 00/932: OPP granted for the erection of a house and septic tanks.

5.0 Policy and Context

5.1. National Planning Framework – Project Ireland 2040, DoHP&LG 2018

The National Planning Framework – Project Ireland 2040 is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e. the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to 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. Sustainable Rural Housing Development Guidelines 2005

The Rural Housing Guidelines seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might

apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.3. Development Plan

The Limerick County Development Plan 2010 – 2016 (extended), is the relevant policy document relating to the subject site.

The subject site is located within a rural area which is identified as being within an Area of Strong Agricultural Base for the purposes of the Rural Settlement Strategy. In this regard, Section 3.9.2 of the Plan states:

The rural areas that traditionally have 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 and other settlements. 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.

Section 3.9.2 of the Plan sets out the criteria for local rural persons, noting that applicants must:

1. Come within the definition of a Local Rural Person and
2. The site must be situated within their Local Rural Area, and
3. The applicant must have a 'Local Rural Housing Need'.

Objective RS O2 deals with Single Houses in Area of Strong Agricultural Base and states as follows:

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.

Objective RS08 requires that any grant of permission for a house in areas of strong agricultural base include an occupancy condition.

Section 4.7 of the Plan deals with Rural House Design and the following objectives are considered relevant:

- Objective HOU O15 seeks to Promote the Principles of Appropriate Rural Design.
- Objective HOU O16 deals with Design and Landscaping of New Rural Dwellings.

Section 7.3 of the Plan deals with Landscape & Visual Amenity and seeks to enhance and preserve the general level of tree cover within the County. Objective EH O6 Landscaping & Development seeks to retain existing trees and resist the removal of substantial lengths of roadside boundaries.

Section 7.4 of the Plan deals with Environmental Quality and Objective EH O21 deals with septic tanks and proprietary systems

5.4. Natural Heritage Designations

The site is not located within any designated site. The closest Natura 2000 site is the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) which is located approximately 1.4km to the west of the site. The Lower River Shannon SAC (Site Code 002165) is located approximately 7km to the west.

5.5. EIA Screening

The subject appeal does not relate to a class of development which requires mandatory EIA. Having regard to nature and scale of the 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.

6.0 The Appeal

6.1. Grounds of Appeal

This is a first-party appeal against the decision of the Planning Authority to refuse planning permission for the proposed development. The appeal is submitted by on behalf of the applicant and the issues raised are summarised as follows:

- Planning permission has been granted on three separated occasions on the site between 1999 and 2000.
- The applicant purchased the site on this basis.
- The applicant fits all of the criteria for building in an area of strong agricultural base.
- The existing houses are noted and it is submitted that the area is under strong urban influence with excellent infrastructure to accommodate the proposed house.

A letter of support from the applicants' local councillor is also included with the appeal which is summarised as follows:

- The applicant and her partner are currently renting in Newcastle West and have been searching for a permanent residence or site to build for many years.
- The site the subject of the appeal is the only available options for them.
- Their current accommodation is inadequate for their family.

6.2. **Planning Authority Response**

None.

6.3. **Observations**

None.

7.0 **Assessment**

Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development & compliance with policy
2. Ribbon Development
3. Visual Amenity
4. Site Suitability Issues
5. Other Issues
6. Appropriate Assessment

7.1. Principle of the development & Compliance with Policy.

7.1.1. The subject site lies within a rural area which has been identified as being within an area under strong agricultural base in the Limerick County Development Plan as it relates to rural housing. Section 3.9.2 of the Plan sets out the criteria for local rural persons, noting that applicants must:

1. Come within the definition of a Local Rural Person and
2. The site must be situated within their Local Rural Area, and
3. The applicant must have a 'Local Rural Housing Need'.

There is a requirement for the applicant to demonstrate an essential housing need for residing at this location. Objective RS 02 of the Plan provides for certain criteria to be met in order to establish a *genuine rural housing need* in areas of strong agricultural base.

7.1.2. The bone fides of the appellant are required to be determined with regard to compliance with Limerick County Councils settlement location policies. It is indicated that the applicant grew up in Ballymurragh East and that her parents still reside there. While exact details of the location of the family home are not provided, I note that the townland of Ballymurragh East lies approximately 2km to the south-west of the subject site. The applicant and her partner currently live in rented accommodation in Newcastle West. Objective RS O2 identifies 4 criteria, of which the applicant must comply with only 1, to establish a genuine rural housing need.

7.1.3. I consider that the applicant adequately complies with this objective on the basis of a number of submissions made by the applicant to provide documentary evidence to demonstrate that he has lived within 10km of the site for a minimum of 10 years. As such, I consider that the applicant, in principle, accords with the said settlement location policy requirements of the County Development Plan and complies with the description of rural generated housing in the Sustainable Rural Housing Guidelines. Therefore, I am satisfied that the proposed development, in principle, may be considered acceptable at this location, subject to the inclusion of an occupancy condition in accordance with Objective RS 08 of the Plan.

7.2. Ribbon Development

- 7.2.1. The Board will note that the primary reason for refusal of planning permission relates to ribbon development in the rural area which is considered to be detrimental to the rural character of the area.
- 7.2.2. The issue of ribbon development arises where a number of road frontage houses are permitted along a public road, for example where 5 or more houses exist on any one side of a given 250 metres of road frontage¹. The Sustainable Rural Housing Guidelines recommend 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. The Guidelines require that in assessing individual housing proposals in rural areas planning authorities will therefore in some circumstances need to form a view as to whether that proposal would contribute to or exacerbate ribbon development.
- 7.2.3. Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:
- The type of rural area and circumstances of the applicant,
 - The degree to which the proposal might be considered infill development, and
 - The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.
- 7.2.4. A balanced and reasonable view in the interpretation of the above criteria is required. In terms of the current proposal, the Board will note that there is an existing line of houses located to the east of the subject site. There are two houses, then a gap which provides access to the agricultural fields behind, then three houses a gap and so on. I also note that the layout of the site provides for an access to the east of the site to provide access to the lands to the rear (south). In the context of the subject site, together with the proposals to retain the existing front boundary and that the applicant appears to comply in all other policy respects in terms of rural housing, it might be considered that the development is acceptable. With regard to the PAs

¹ Sustainable Rural Housing Guidelines, 2005, Appendix 4

reason for refusal, I do not consider that the development, if permitted, would be detrimental to the rural character of the area.

7.3. Visual Amenity

- 7.3.1. Chapter 7 of the County Development Plan deals with Environment and Heritage and Section 7.3 deals with Landscape & Visual Amenity. Objective EH O6: Landscaping and Development is considered relevant in this instance, where it is the objective of the Council to retain existing trees and only in exceptional circumstances should roadside boundaries be removed. The development, if permitted, will retain all of the existing roadside and boundary trees, using the existing entrance to access the site. This entrance will be amended only to set it back and provide splayed wing walls.
- 7.3.2. In terms of the adjacent property, I am satisfied that adequate separation exists to prevent any residential amenity issues arising. The proposed house comprises a 4-bedroom single storey house which is of a scale which is appropriate to this large site. the house will rise to a maximum height of approximately 5.4m and the building will be finished with a mix of smooth plaster / colour render, natural stone and cedar cladding. The roof will be finished in blue/black fibre cement slates and the windows will be triple glazed AluP. The front door will be a composite door. The proposed detached garage will sit behind the rear wall of the house.
- 7.3.3. In terms of the above, I am satisfied that there are no visual amenity issues arising and that if permitted, the development would accord with objective EH O6 of the Plan which seeks to ensure the integration of development into the landscape by the retention of existing trees and landscape features and to resist the removal of substantial lengths of roadside boundaries.

7.4. Site Suitability Issues

- 7.4.1. In terms of site suitability, the Board will note that the applicant submitted a completed Site Suitability Assessment report, prepared by Meskell Consulting Engineers, who are identified as approved site assessors. The submitted plans identify the location of the proposed wastewater treatment system but fails to identify the location of the WWTP for the adjoining house. That said, I am satisfied that

adequate distance between the two properties exist. It is also noted that the house is to be serviced via a connection to public mains.

- 7.4.2. It is intended to install a packaged Wastewater Treatment system to service the proposed dwelling which will discharge to a Premier Tech Ecoflo Tertiary Treatment Filter. The filter will be placed over a 300mm sandstone bed with a stated area of 40m². The proposed design also requires the removal of the soil layer between 300mm and 1200mm to be removed and replaced with subsoil with a *T value of between 3-30.
- 7.4.3. The Site Assessment Report notes that the bedrock was not encountered in the trial pit, which was dug to 2.4m bgl, while the water table was identified at 1.8m bgl. The assessment identifies that the site is located in an area where there is no Groundwater Protection Scheme and categorises the site as being a locally important aquifer (LI) with low vulnerability. A Groundwater Protection Repose of R1 is indicated. The soil is described as silt/clay with subsoil comprising clayey silt with fine gravel, common cobbles and shale. The bedrock type is 'Visean limestones'. *T tests were carried out on the site at a level of 1,000mm bgl, yielding an average value of 159.00, and a *T result of 38.94. *P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 121.33 and a *P result of 32.83. The report concludes, recommending a packaged wastewater treatment system and polishing filter with trench at an invert level of 0m. The system will discharge to groundwater.
- 7.4.4. In terms of the proposed design of the tertiary treatment system, the Board will note that there is some confusion in the report. While the assessor recommends a WWTP and polishing filter, including the premier tech Ecoflow tertiary treatment filter, Section 6 of the report refers to a constructed wetland with an area of 40m². I also note that no hydraulic loading rate has been provided. The submitted plans do not clearly articulate the detail of the WWTP system to be installed and in particular, I note that part of the design includes the removal of the insitu soil and replacing it with soil which has a *T value of between 5-30.
- 7.4.5. I acknowledge the level of treatment proposed by the applicant, and should the Board be minded to grant planning permission, these issues should be resolved in order to ensure compliance with the EPA Code of Practice. Clarification on the

hydraulic loading rates should also be clearly stated. Notwithstanding the above, I am generally satisfied that the application should not fall on these details. I am satisfied that the site appears capable of accommodating the development in the context of wastewater treatment and disposal, if permitted, the development is unlikely to result in a public health hazard or impact on the quality of ground or surface waters in the area.

7.5. Other Issues

7.5.1. Roads & Traffic

The proposed development will be accessed via the local road, the L1316. Adequate sight distances are available in both directions at the entrance to the site. I have no objections in this regard.

7.5.1. Development Contribution

The subject development is liable to pay development contribution, a condition to this effect should be included in any grant of planning permission.

7.5.2. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA (Site Code: 004161) which is located approximately 1.4km to the west of the site. The Lower River Shannon SAC (Site Code 002165) is located approximately 7km to the west.

Overall, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European Site.

8.0 Recommendation

I recommend that planning permission be granted for the proposed development for the following stated reason and subject to the following stated conditions.

9.0 Reasons and Considerations

Having regard to the pattern of permitted development in the area, to the provisions of the Limerick County Development Plan 2016, and to the nature and scale of the proposed development in an area under strong agricultural base, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity, would not be prejudicial to public health and would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars submitted on the 17th day of August 2020, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The roadside ditch along the front boundary shall be piped.

Reason: In the interest of public health.

3. The existing front boundary shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

Reason: In the interest of visual amenity.

4. The external finishes of the house shall be in accordance with the details submitted to the Planning Authority on the 17th day of August 2020.

Reason: In the interest of visual amenity.

5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

7. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 17th day of August 2020, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.

(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and

agreed in writing with, the planning authority within four weeks of the installation.

(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.

(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

9. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment of a hedgerow along all side and rear boundaries of the site, and

(b) planting of trees along the boundaries of the site. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

10. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation

from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the amenities of property in the vicinity.

11. (a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.

(b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.

This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.

Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted [to meeting essential local need] in the interest of the proper planning and sustainable development of the area.

12. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning

authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

A. Considine
Planning Inspector
18/07/2021