



An
Bord
Pleanála

Inspector's Report ABP-309814-21

Development	House and wastewater treatment system
Location	Ballyengland Upper, Askeaton, County Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	20/665
Applicant(s)	Elaine Butler
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Bill Mooney
Date of Site Inspection	15 th June, 2021
Inspector	Kevin Moore

1.0 Site Location and Description

1.1. The 0.553 hectare site is located approximately 4km east of Askeaton in County Limerick. It is triangular shaped which lies immediate south of a junction of two local roads and 150 metres south of the N69 National Secondary Road. It is flanked east, west and north by public roads and by agricultural land to the south. The site slopes from west to east to a stream bordering the site and public road. It is a wooded area that has been cleared in its centre There are substantial trees and shrubbery around the perimeter and the roadside boundaries comprise low stone walls. There are a number of detached houses in the vicinity of the site.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a four bedroom bungalow with a stated gross floor area of 136.7 square metres. The house would be served by a public mains water supply and an on-site wastewater treatment system.
- 2.2. Details submitted with the application included a site characterisation report relating to the proposed wastewater treatment system, a letter from landowners permitting the making of the application, a Design Statement, and 3D images of the proposed house.

3.0 Planning Authority Decision

3.1. Decision

On 4th March, 2021, 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 third party submission. It was acknowledged that the site is located in an area designated a 'Structurally Weak Area' in the Limerick County Development Plan. It was recommended that further information be sought in

relation to the setting back of a utility pole and overhead line along the roadside boundary and consent from landowners where works are proposed to the roadside boundary that is not in the ownership of the applicant.

3.2.2. Other Technical Reports

The Road Design Office stated that it had no observations to make.

The Environment Section recommended the attachment of a condition relating to the proposed treatment system.

3.3. Prescribed Bodies

Transport Infrastructure Ireland stated it would rely on the planning authority to abide by official policy in relation to development on/affecting national roads.

Irish Water had no objection to the proposal.

3.4. Third Party Observations

An objection to the proposal was received from Bill Mooney. The grounds of the appeal reflect the principal planning concerns raised.

3.5. A request for further information was issued to the applicant on 9th September, 2020 and a response to this request was received by the planning authority on 9th February, 2021.

3.6. The Planner reported subsequently that there were no outstanding matters and recommended a grant of permission subject to conditions.

4.0 Planning History

P.A. Ref. 12/400

Permission was granted for the construction of an agricultural entrance.

P.A. Ref. 15/469

Outline permission was granted for a house and wastewater treatment system.

5.0 Policy Context

5.1. Limerick County Development Plan

Rural Settlement Policy

The Plan states:

The planning authority recognises that the continued trend towards single houses in the open countryside is unsustainable and has implications for the key rural resources of agricultural land, water quality, landscape and heritage as well as undermining the growth and use of existing services and facilities in the towns and villages. In addition, it is stated that the proliferation of one-off rural houses does not strengthen rural communities in the long term. The strengthening of rural communities can only be achieved in the long term through making settlements more attractive places to live and providing employment opportunities.

To this end the Planning Authority will favour appropriate development within the designated villages and settlements over urban generated rural housing.

Policies include:

Policy RS P1

It is a policy of the Council to provide for the development of sustainable rural housing in the County in accordance with the 'Sustainable Rural Housing' guidelines issued by the Department of the Environment, Heritage and Local Government.

Rural Area Types

The site is located within an area designated a Structurally Weak Area. The Plan states:

Structurally Weak Areas: The rural areas generally exhibit characteristics such as persistent and significant population decline as well as a weaker economic structure based on indices of income, employment and economic growth. These rural areas are more distant from the major urban areas and the associated pressure from urban generated housing. The objective for these areas is as follows:

Objective RS O3: Single Houses in Structurally Weak Areas

To help stem decline and strengthen structurally weak areas, it is an objective of the Council that in general, any demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

Environment and Heritage

Objectives include:

Objective EH O6: Landscaping and Development

It is the objective of the Council to

- (a) Ensure the adequate integration of development into the landscape by the retention of existing trees and landscape features and/or suitable planting.
- (b) Encourage, where appropriate, the use of native species. The layout of landscaping planting and features to act as wildlife corridors within developments, particularly residential developments, and linking with other habitats in the area will be encouraged.
- (c) Resist the removal of substantial lengths of roadside boundaries. Where an alternative, suitable site is available for the development, applicants should consider such an alternative on the basis that avoids the necessity for widespread boundary removal. Only in exceptional circumstances should roadside boundaries be removed.

5.2. 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. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be summarised as follows:

- There is concern that the proposal would lead to pollution of the appellant's well and other wells in the vicinity. The site is in an area of fractured limestone

and the groundwater flow from the percolation area is directly towards the appellant's house and well.

- Reference is made to previous decisions by the planning authority and the Board in support of this submission.
- The proposed entrance would cause a traffic hazard as sight distance is not available to the south and the adjacent land is not in the ownership of the applicant.
- The proposal would require the removal of trees and scrub and would rob the area of its diversity and fauna. The removal of trees and scrub would be required to achieve sightlines and the lowering of the front boundary to 800mm would be for an excessive length and would be contrary to Objective EH06 of the County Development Plan.
- Reference is made to a previous decision by the planning authority to refuse permission relating to an adjacent site and to other Board decisions.

The Board is asked to refuse permission on public health, traffic safety and landscape grounds.

6.2. Applicant Response

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

- The site layout plan and wastewater treatment system have been designed in accordance with the EPA Wastewater Treatment and Disposal Systems Serving Single Houses 2009 and does not give rise to public health concerns.
- Adequate sight distance of 90 metres can be provided at the entrance thereby ensuring the proposal does not give rise to a traffic hazard.
- Significant tree stands and boundary planting to the east have been retained thereby minimising any biodiversity loss due to removal of trees.

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 the principal planning issues relating to this proposal are rural housing need, impact on water supplies, traffic impact, and visual impact.

7.2. Rural Housing Need

- 7.2.1. I note that the applicant, in response to the appeal, makes reference to the site being in a 'Structurally Weak Area' and to planning policy and guidelines as they relate to sustainable rural housing. It is reasonable to determine that this is not a new issue.
- 7.2.2. I acknowledge that the applicant is purchasing the site for the proposed development. It is also noted from the application details that the applicant's father was previously in receipt of outline permission on this site under P.A. Ref. 15/469 and that this outline permission has withered. From the planning application form, it is noted that the applicant's contact address is in Ballyneety, County Limerick. The applicant, in response to the appeal, submits that she wishes to locate to Bansha for personal and family reasons. There is no other information available about the applicant and her need for a house in this rural location. Ballyneety is approximately 35km from the site of the proposed development. It may reasonably be concluded that the applicant is not local to this rural area at this time.
- 7.2.3. I note the provisions of Limerick County Development Plan as they relate to rural housing. The planning authority recognises in the Plan that the continued trend towards single houses in the open countryside is unsustainable, that it has implications for the key rural resources of agricultural land, water quality, landscape and heritage, and that it undermines the growth and use of existing services and facilities in the towns and villages. It is also noted that the proliferation of one-off rural houses does not strengthen rural communities in the long term and that the strengthening of rural communities can only be achieved in the long term through making settlements more attractive places to live and providing employment opportunities. It is further stated that the planning authority will favour appropriate

development within the designated villages and settlements over urban generated rural housing. Policy RS P1 of the Plan supports the provisions of the 'Sustainable Rural Housing' guidelines issued by the Department of the Environment, Heritage and Local Government. Moving then to Rural Area Types, I acknowledge that the site is within an area designated a Structurally Weak Area and that, in contrast to the general provisions of the Plan, the objective for these areas is to accommodate any demand for permanent residential development, subject to meeting normal planning and environmental criteria (Objective RS 03).

- 7.2.4. The Board should first note that there is extensive one-off housing and ribbon development in the area in which the proposed development is sought. There clearly is significant demand for one-off housing in this area which appears to contrast with its 'Structurally Weak' classification. I would suggest to the Board that there is a likely strong urban influence to the nature of residential development in this rural area. A development of the nature proposed is the type of development which is unsustainable and which undermines the growth and use of existing services and facilities in the nearby towns and villages. This is not a development which will strengthen the rural community at this location in the long term and is clearly urban generated rural housing. This is the type of development which the general provisions of Limerick County Development Plan wish to be avoided.
- 7.2.5. Further to the above, it is apparent that, based on what is known about the applicant's rural housing need, this proposal would run contrary to the *Sustainable Rural Housing Guidelines for Planning Authorities*, as the applicant has no known genuine 'rural' housing need within an area of the county that is evidently under significant development pressure for one-off housing, given the pattern of housing development in this rural area, an area which is easily accessible to the village of Askeaton and many other towns and villages, as well as to Limerick City which is less than 30km from the site. The applicants' residential needs could clearly be met within the many serviced towns and villages in the area.
- 7.2.6. In addition to the above, 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 applicant does not have any known justification that would merit permitting the development of a house on this site. The National Planning Framework objective of managing the growth of areas that are under urban influence to avoid over-development would essentially be contravened. The proposal would, thus, be in conflict with the National Planning Framework.

7.3. Impact on Water Supplies

7.3.1. I note that this is the main concern of the appellant. The appellant has a well and references the existence of other wells in the area. I note from the applicant's planning application form that the proposed development would be served by a mains water supply, while the submitted Site Characterisation Form states that the development would be served by a private well/borehole. The applicant's drawings appear to be devoid of information on proposed water supply. I note from the Irish Water report to the planning authority that there is no public watermain available but that a group water scheme apparently abuts the site. There are no details provided on permission to connect to a non-Irish Water supply scheme.

7.3.2. The proposed wastewater treatment plant would be sited upgradient from existing wells on the opposite side of the local road to the east. The visual assessment of the applicant's Site Characterisation Form makes reference to the site sloping down from west to east, to wells serving neighbouring houses, the existence of a downgradient well approximately 20 metres east of the site, and to some rushes and rock outcrops being noted. The latter would indicate initial concerns relating to the percolation abilities of soils on this site to address final effluent discharged from a private wastewater treatment system. Where the trial hole was dug bedrock was encountered 2.5m below the ground surface. It is apparent that the proposed development of an on-site wastewater treatment system a short distance upgradient of an existing private well poses a significant pollution risk to that private water supply. Notwithstanding the provision of a sand polishing filter and the necessary continuous high level of maintenance associated with it that would be required, final effluent would ultimately discharge to ground and pose an unacceptable pollution risk in such a sensitive and vulnerable location.

7.4. Traffic Impact

7.4.1. The proposed development would access a minor local road which is inadequate in width to safely accommodate two-way vehicular traffic. A development of the nature proposed would evidently interfere with farm-related and other such local traffic on this minor local road. To achieve adequate sightlines from the proposed entrance would require the removal of substantial vegetation for extensive lengths along the local road. In the context of the applicant having no known rural-generated housing need at this location, the proposed development would particularly constitute a proposal which would result in its associated traffic interfering with the free flow of traffic on the local road and would, thus, constitute a traffic hazard.

7.5. Visual Impact

- 7.5.1. I note the extent of hedgerow and woodland within and bounding this site. There is a substantial mix of oak, beech, and ash, as well as sycamore on this site. The proposed development would require the removal of substantial vegetation along its western flank boundary to accommodate a safe vehicular entrance into the site. This would lead to a substantial loss of screening and consequent opening up of the site, with the proposed house and any ancillary structures being more visible. I accept that this would result in an increased visual impact but note the nature and extent of housing in the immediate vicinity with similar impacts where interference with the natural condition of lands has occurred. I also note that the more sensitive tree lines and hedgerow along the northern and western sections of the site are not intended to be affected by the proposal. A development on this site could be sited and managed to minimise the loss of natural sensitive vegetation to reduce the local visual impact that would result.

7.6. Appropriate Assessment

- 7.6.1. I note the existence of the nearest European site, Askeaton Fen Complex (Site Code: 002279) which is within 500m to the north-west of the site and north of the N69 National Secondary Road. Its Qualifying Interests are Calcareous fens with *Cladium mariscus* and species of the *Caricion davallianae* and Alkaline fens. The conservation objectives are to maintain the favourable conservation condition of these fens. I note that the proposed development may be determined to be of a relatively minor nature and the substantial separation distances between the site and the nearest parts of this nearest European site are acknowledged. I acknowledge that there would be no direct impacts on this site. However, it is not understood if there is any indirect connectivity with this site or indeed any other European site in the area. In the event of the Board considering a grant of permission for the proposed development there would be a need to seek further details from the applicant and a screening for appropriate assessment by the applicant could be considered appropriate in this instance.

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. Limerick County Development Plan recognises that the continued trend towards single houses in the open countryside is unsustainable, has implications for the key rural resources of agricultural land, water quality, landscape and heritage, undermines the growth and use of existing services and facilities in the towns and villages, and does not strengthen rural communities in the long term. Furthermore, the *Sustainable Rural Housing Guidelines for Planning Authorities* and the National Policy Objectives of the *National Planning Framework* seek to promote rural generated housing need and to manage the growth of areas that are under urban influence in order to avoid over-development and to ensure that the provision of single housing in rural areas under urban influence are provided based upon demonstrable economic or social need to live in a rural area,

Having regard to the location of the site within a rural area in which there is extensive one-off housing and to the provisions of the County Development Plan, the *Sustainable Rural Housing Guidelines for Planning Authorities* and the National Policy Objectives of the *National Planning Framework*, it is considered that the applicant does not have a demonstrable rural generated housing need as set out in the *Sustainable Rural Housing Guidelines* for a house at this rural location and does 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 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 the 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 proximity of existing private domestic wells to the proposed effluent treatment system, to the shallow depth to bedrock on this site, and the siting of the proposed soil polishing filter upgradient of existing wells, it is considered that the proposed development would be prejudicial to public health due to the risk of pollution of these established water supply sources.

3. Having regard to the substandard, restricted width of the road onto which the proposed vehicular entrance would access and the limited available sightlines at the site frontage, which would culminate in the need for substantial hedgerow removal along the 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 and which would interfere with the safety and free flow of traffic on the public road.

Kevin Moore
Senior Planning Inspector

22nd June 2021