



An
Bord
Pleanála

Inspector's Report ABP-309962-21.

Development	Construct a house, garage and WWTP
Location	Farnane, Cappamore, Co. Limerick.
Planning Authority	Limerick City & County Council.
Planning Authority Reg. Ref.	20/1184.
Applicant(s)	Sharon Ryan & Stephen Cummins.
Type of Application	Permission.
Planning Authority Decision	Grant with conditions.
Type of Appeal	Third Party
Appellant(s)	Joan McLoughlin
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 1.8km to the north-east of the town of Cappamore in Co. Limerick. Access to the site is off the local road, the L5024 and within an area which has an 80km/ph speed limit. The site comprises an infill site with an existing house on either site.
- 1.2. The site has a stated area of 0.26 hectares and is currently in agricultural use. It is proposed to enlarge the existing access to the site, and I note that the existing roadside boundary and the boundary to the north and east (rear) comprise a line of mature trees and hedges. The boundary to the south is less mature. The house to the south is a two storey while the house to the north is a single storey.

2.0 Proposed Development

- 2.1. Permission is sought, as per the public notices for the construction of a new single storey house complete with a domestic garage, effluent treatment system and a new site entrance, all at Farnane, Cappamore, Co. Limerick.
- 2.2. The application included a number of supporting documents including as follows;
 - Plans, particulars and completed planning application form,
 - Letter of consent from landowners estate
 - Site Suitability Assessment¹
 - Evidence of local rural person compliance.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission for the proposed development subject to 17 conditions.

¹ Note that the report was not submitted to the Board for inclusion on the appeal file. I viewed the report on the Councils website.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The initial 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 report notes that the development is to be serviced by a private well and WWTP system.

The planning report notes that the applicants have demonstrated a housing need as defined under Objective RS02 of the CDP and that the proposed house design is acceptable. Concern is raised in relation to sight distances, landscaping plan and the third-party objection. Further information was sought in relation to these issues.

On the 22nd of January 2021, the applicant responded to the FI request. The Planning Officer was not satisfied that 90m sight lines could be achieved and requested the relocation of the entrance by way of clarification. A letter from the utility company regarding the relocation of the utility pole was also requested. On the 24th of February, the applicant submitted a revised site layout plan showing the relocation of the entrance and a letter from Eir advising that subject to the applicant covering the cost, the pole could be relocated if necessary.

The Planning Officer recommends that permission be granted for the proposed development, subject to 17 conditions.

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

3.2.2. Other Technical Reports

Environment Section²: No objection subject to compliance with condition relating to the installation of the onsite WWTP system.

3.2.3. Prescribed Bodies

Irish Water: Notes no objection.

² Note that the report was not included on the appeal file. I consulted the Council Website to view it.

3.2.4. Third Party Submissions

There is 1 third party submission noted. The issues raised are the same as those raised in the third-party appeal, which are summarised below in Section 6.1 of this report.

4.0 Planning History

There is no recent planning history pertaining to the subject site. permission was granted in 1996 and 1997 for the construction of a dwelling to two different applicants on the site.

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 Lower River Shannon SAC (Site Code 002165) which is located approximately 0.9km to the south. The Slievefelim to Silvermines Mountains SPA (Site Code 004165) is located approximately 1.7km to the north.

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 third-party appeal against the decision of the Planning Authority to grant planning permission for the proposed development. The appeal reflects the issues raised during the PAs assessment of the proposed development and the issues raised are summarised as follows:

- Issues with drawings that make them difficult to read.
- Issues with levels indicated and that the layout is not drawn on an accurate survey.
- Issues with contiguous elevations

- Inconsistencies in the site suitability assessment.
- Location of patio doors on the south-western elevation which are located only 5m from the boundary and will face directly into the adjacent property.
- No consideration given to the narrowness of the site.
- The development is ribbon development.
- Issues with sight distance at entrance.

6.2. Applicants Response to Third-Party Appeal

The applicants agent responded to the third party appeal as follows:

- The spot levels are in compliance with the local authority requirements
- The site layout is drawn to the required scale 1:500.
- Contiguous elevations are provided
- The PA sanctioned the site suitability test report
- Windows at ground floor level facing the southern boundary face a beech hedge
- The site is 31m wide and is an infill site, therefore does not constitute ribbon development
- Sight lines are acceptable to the local authority roads engineers.

6.3. Planning Authority Response

None.

6.4. 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. Roads & Traffic
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 applicants are required to be determined with regard to compliance with Limerick County Councils settlement location policies. It is indicated that one of the applicants is from Morroe, approximately 6.2km to the northwest of the site while the second applicant is from Doon, approximately 5.6km to the south-east. While exact details of the location of the family homes are not provided, I note that both applicants grew up within 10km of the subject site, which accords with the CDP Local Rural Area distance. The applicants both reside in their respective family

homes with their parents and do not appear to own a house in the rural area.

Objective RS O2 identifies 4 criteria, of which the applicants must comply with only 1, to establish a genuine rural housing need. I note that Ms. Ryan appears to live in the rural area while Mr. Cummins lives in Doon.

- 7.1.3. I consider that Ms. Ryan adequately complies with the requirements of Objective RS O2 on the basis of a number of submissions made in terms of documentary evidence to demonstrate that she have lived within 10km of the site for a minimum of 10 years. As such, I consider that the Ms Ryan, in principle, accord 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. Roads & Traffic

- 7.2.1. The Board will note that the Planning Authority required the relocation of the entrance to the site in order to maximise sight distances at the entrance. Having undertaken a site inspection and having regard to the nature of the local road, I would not share the concerns of the planning authority. I am satisfied that adequate sight distances are available at the existing entrance to the site and if permission is granted, the widening of the entrance to accommodate the splayed walls are acceptable.
- 7.2.2. 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 original site layout for the proposed development, sought to retain most of the existing roadside and boundary trees, using the existing entrance to access the site. This entrance will be amended only to widen and provide splayed wing walls.
- 7.2.3. I refer the Board to the applicants' submission in this regard dated the 26th of January 2021 noting the intention to retain the existing roadside boundary hedge.

The landscaping plan also provides details of the supplementary planting to occur in this area of the site. The proposal to relocate the entrance, as required by the PA, will see the extensive removal of this roadside boundary, contrary to the policies and objectives of the Limerick County Development Plan. As such, should the Board be minded to grant permission, the layout as submitted on the 26th of January 2021 should be conditioned as being acceptable.

7.3. Visual Amenity

- 7.3.1. The Board will note that the appellant considers that the subject site is narrow and that this has not been considered in terms of the site layout proposed. The site is 31m in width which is wholly acceptable. 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 site. The house will rise to a maximum height of approximately 5.8m and the building will be finished with a mix of smooth plaster and natural stone. The roof will be finished in black fibre cement slates and the windows will be PVC double glazed. The front door will be a hardwood door. The proposed detached garage will sit behind the house.
- 7.3.2. 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 06 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.
- 7.3.3. The Board will note the concerns of the third-party appellant with regard to the potential impact of the dwelling on their property. I have considered this issue carefully and am satisfied, having regard to the separation distance proposed and the proposed landscaping plan, together with the fact that permission is sought for a single storey house only, that the development, if permitted on this infill site, is unlikely to give rise to any significant impacts on the existing residential amenity of adjacent properties.

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 Ms. Janet Costello. The submitted plans identify the location of the proposed wastewater treatment system as well as the locations of the WWTP for the adjoining houses. It is also noted that the house is to be serviced via a connection to public mains. It is intended to install a packaged Wastewater Treatment system to service the proposed dwelling which will discharge to a Molloy Chieftain Cocofilter polishing filter, which will ultimately discharge to groundwater.
- 7.4.2. The Site Assessment Report notes that the bedrock was not encountered in the trial pit, which was dug to 1.8m bgl, and no bedrock or water table was identified, although mottling was noted from a depth of 0.7m bgl. An iron pan was also noted at 0.6m bgl. The assessment identifies that the site is located in an area where there is a Groundwater Protection Scheme and categorises the site as being a locally important aquifer (LI) with high vulnerability. A Groundwater Protection Repose of R1 is indicated. The soil is described as sandy/clay with subsoil comprising sandy clay and clayey sand. The bedrock type is 'Devonian Old Red Sandstones. Keeper Hill Formation'.
- 7.4.3. *T tests were carried out on the site at a level of between 900mm and 1,000mm bgl, yielding an average value of 24.33, and a *T result of 30.72. *P tests were also carried out at the site at a level of 0.4m bgl, yielding an average value of 314.33. As such, no *P result was achieved. The report concludes, recommending that the existing soil – topsoil, sandy clay and Iron Pan – to a depth of 700mm be replaced with suitable imported soil with a T/P value of 3-20.
- 7.4.4. I note that the Planning Authority has no objections to the proposed development in this regard. 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. Third Party Issues

Issues with drawings

The Board will note that the third-party appellant raised concerns with regard to the details of the plans and particulars submitted with the application. I am satisfied that the plans as submitted are acceptable and accord with the requirements of the Planning and Development Regulations and include adequate information in order for the Board to make a decision.

Ribbon Development

The Board will note that the third-party appellant considers that the development is ribbon development. 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 frontage³. 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.

In terms of the current proposal, the Board will note that the subject site comprises an infill site on the public road, with two existing houses located to the north-east and one house to the south-west. I am satisfied that the issue of ribbon development does not arise in this instance.

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.

³ Sustainable Rural Housing Guidelines, 2005, Appendix 4

7.5.2. Appropriate Assessment

The site is not located within any designated site. The closest Natura 2000 site is the Lower River Shannon SAC (Site Code 002165) which is located approximately 0.9km to the south. The Slievefelim to Silvermines Mountains SPA (Site Code 004165) is located approximately 1.7km to the north.

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 26th day of January 2021, 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 north-western / 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 roof colour of the proposed house shall be blue-black, black, dark brown or dark-grey. The colour of the ridge tile shall be the same as the colour of the roof.

Reason: In the interest of visual amenity.

5. The external walls shall be finished in neutral colours such as grey or offwhite.

Reason: In the interest of visual amenity.

6. 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 16th day of November, 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 dwellinghouse 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