



An  
Bord  
Pleanála

## Inspector's Report

### ABP-311147-21

<b>Development</b>	Revisions to permitted development ref. no. 18855 to include alteration to site boundaries, vehicular entrance, reposition of permitted house and associated site works.
<b>Location</b>	Raheen, Grange, Bruff, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	201332
<b>Applicant(s)</b>	Tim & Martina Hurley
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant with conditions
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Audrey Brown & Noreen Daly
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	3 <sup>rd</sup> February 2022
<b>Inspector</b>	Liam Bowe

## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the townland of Raheen approximately 4km to the north of the settlement of Bruff and approximately 13.5km to the south of Limerick City. The appeal site is located within a rural agricultural area with a scattered pattern of one-off housing development.
- 1.2. The appeal site is an irregular L-shape and has a stated area of 1.78 hectares comprising part of a larger open agricultural field which is low-lying and falls in an easterly direction towards a stream, and part of a derelict farmyard complex with associated paddocks. The front / southern roadside boundary with the public road has a low hedgerow and the old farmyard complex, which is the main body of the site, is surrounded by hedgerows. There is an existing vehicular access to the site from the local road, but this was locked on the day of my site inspection, and this provides access to a separate house. There are two single storey dwellings in the field immediately to the south of the appeal site and a number of houses further to the southwest.

## **2.0 Proposed Development**

- 2.1. The proposed development comprises alterations to the site boundaries, moving the site entrance approx. 160m to the east, and repositioning of a permitted two-storey dwelling and associated domestic wastewater treatment system (DWWTS) at Raheen, Grange, Bruff, County Limerick.

## **3.0 Planning Authority Decision**

### **3.1. Further Information Request**

Prior to issuing a notification of decision, the Planning Authority issued a further information request on 11<sup>th</sup> February 2021 requiring details in relation to the justification for a new entrance, a Site-Specific Flood Risk Assessment, details of works to the roadside boundary, a landscaping scheme, and a request to respond to the objections on the file.

The applicant submitted a response to this further information request to the Planning Authority on 25<sup>th</sup> June 2021, which included a justification for the new entrance, a Site-Specific Flood Risk Assessment, an outline of works to be carried out to the new entrance, a landscaping scheme for the new entrance and driveway, and comments on the objections to the proposed development.

### **3.2. Decision**

By order dated 21<sup>st</sup> July 2021 Limerick City and County Council issued notification of the decision to Grant Permission for the proposed development subject to 3 No. standard conditions. The Conditions include inter alia the following:

- Condition No. 3: This permission and the governing permission expires on 19/11/2023.

### **3.3. Planning Authority Reports**

#### **3.3.1. Planning Reports**

There are two Planning Reports on file dated 10<sup>th</sup> February 2021 and 20<sup>th</sup> July 2021, respectively. The Planning Officer in the first report stated policy in relation to Refurbishment / Replacement of traditional rural dwellings is relevant in the Limerick CDP and Objective RS 05 applies. It was considered that the applicants had demonstrated compliance with this objective under a 2018 planning application (P.A. ref. no. 18/855 refers). Concerns were raised regarding the need for a second entrance and the closeness of the proposed access road to the stream to the east of the site. Further information was recommended in this regard, which is reflected in the decision of the Planning Authority.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

The second Planner's Report (dated 7<sup>th</sup> July 2021) refers to the further information submitted and stated that, having regard to the additional information, permission should be granted subject to 3 No. conditions.

#### **3.3.2. Other Technical Reports**

**Environment Engineer** – No Objection. Recommended grant.

### 3.4. **Prescribed Bodies**

**OPW** – The site of the proposed development may be subject to an increased flood risk.

### 3.5. **Third Party Observations**

Submissions were received from Audrey Brown and Noreen Daly. The issues raised are generally similar to those referenced in the grounds of appeal. These include concerns regarding a new entrance onto a substandard road, backland development, and the intentions of the applicants for the derelict cottage to be replaced.

## 4.0 **Planning History**

### 4.1. **Appeal site:**

**P.A. Ref. No. 18/855:** Permission granted for a vehicular entrance off existing private driveway, construction of a replacement dwelling house, and a domestic wastewater treatment system with a polishing filter, subject to 14 no. conditions.

## 5.0 **Policy Context**

### 5.1. **Limerick County Development Plan 2010-2016 (as extended)**

#### **Objective RS 05 Refurbishment / Replacement of traditional rural dwelling**

The retention and sympathetic refurbishment with adaptation, if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building will be encouraged in preference to their replacement.

Planning permission will generally only be granted for a replacement dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved, where the building is not of architectural merit.

In this instance consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of

building and normal planning considerations. Local rural housing need shall not apply in this instance.

### **Objective RS 08 Occupancy Condition**

Require that any house which is granted planning permission in the rural areas designated 'Areas under strong urban influence' and 'Areas of strong agricultural base' will be subject to a requirement of occupancy of seven years by the applicant.

### Environment and Heritage

Objectives include:

### **Objective EH 06: Landscaping and Development**

It is the objective of the Council to 'ensure the adequate integration of development into the landscape by the retention of existing trees and landscape features and/or suitable planting' and to 'resist the removal of substantial lengths of roadside boundaries'.

## **5.2. Natural Heritage Designations**

There are no European Sites in the vicinity of the site. The closest site is the Glen Bog SAC (site code: 001430) approx. 3.7km to the southeast.

## **5.3. EIA Screening**

Having regard to the nature and scale of the proposed development and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the carrying out of an EIA is not required in this case.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

- 6.1.1. The grounds of appeal are submitted by Audrey Brown & Noreen Daly. The main points made can be summarised as follows:

- Contend that planning permission has not been granted in accordance with the policy for an area designated as a strong agricultural base under the Limerick County Development Plan.
- Contend that it affords the landowners the opportunity to develop more properties to the rear of their houses.
- Contend that the planning application should have been regarded as an application for a new dwelling and assessed under policy RS 08 for rural housing need.
- Contend that a second entrance is not necessary and contrary to both planning policy and practice in this rural area.
- Contend that it remains open to the landowner to develop the derelict cottage and outbuildings.
- State that the location of the septic tank associated with the bungalow on the holding has not been indicated on the site layout plan.
- Concerned that the parcel of land approx. 4/5 acres to the rear their houses may be the subject of future planning applications.
- Express concerns about the impact on their private views.

## **6.2. Applicant Response**

6.2.1. The applicants responded to the issues raised in the appeal as follows:

- Full planning permission has already been granted for the replacement dwelling and the appellants did not object to that planning application.
- The proposed house will be further from the appellants' houses under the current application.
- Contends that the First Parties responded comprehensively to the RFI from the Planning Authority.
- The existing, exempted field entrance will be closed.
- State that the planting along the proposed driveway will not exceed 1m in height.

### **6.3. Planning Authority Response**

The Planning Authority has not responded to the grounds of appeal.

## **7.0 Assessment**

I consider that the main issues in the assessment of this appeal are as follows:

- Refurbishment / Replacement of traditional rural dwelling
- Road safety
- Other Issues
- Appropriate Assessment

### **7.1. Refurbishment / Replacement of traditional rural dwelling**

- 7.1.1. The appellants contend that planning permission has not been granted in accordance with the policy for an area designated as a strong agricultural base under the Limerick County Development Plan and that the planning application should have been regarded as an application for a new dwelling and assessed under policy RS 08 for rural housing need.
- 7.1.2. The First Party states that full planning permission has already been granted for the replacement dwelling and the proposed house will be further from the appellants' houses under the current application.
- 7.1.3. The appellants reference policy objective RS 08, which requires that any house which is granted planning permission in the rural areas designated 'Areas of strong agricultural base' will be subject to a requirement of occupancy of seven years upon the applicant. However, the relevant policy for the assessment of a new application for a house would be under policy Objective RS 02 for single houses in areas of strong agricultural base. The appellants make it clear in their appeal that they do not object to a replacement dwelling on the appeal site but contend that an occupancy condition should have been attached to the grant of permission, similar to other permissions granted in the area.
- 7.1.4. I am satisfied that the governing permission (P.A. ref. no. 18/855 refers) on the site was assessed under policy Objective RS 05 and planning permission was only

granted for a replacement dwelling because it was demonstrated that the derelict house on the site was not reasonably capable of being made structurally sound or otherwise improved. The policy is clear on how such a proposed development will be assessed:

'In this instance consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of building and normal planning considerations. Local rural housing need shall not apply in this instance.'

I am, therefore, satisfied that, as local rural housing need does not apply, the application is for revisions to a permitted development and, therefore, the principle of a house in this location is acceptable. I consider that the Planning Authority applied the policy as it was intended to be implemented and did not attach an occupancy condition to the grant of permission.

7.1.5. The application under appeal is for alterations to the site boundaries, moving the site entrance to the east, and to reposition the permitted two-storey dwelling. I am satisfied that this can be assessed as amendments to the governing permission issued under P.A. ref. no.18/855. In this regard, I note condition no.3 attached to the grant of permission issued by the Planning Authority requiring the development to be completed within 5 years of the final grant of the governing permission and I recommend that the Board attach a similar condition if permission is granted hereunder.

7.1.6. As the First Party are proposing to reposition the proposed replacement dwelling under the current application, the repositioning of the proposed dwelling needs assessment. In this regard, the First Party proposes to move the permitted house 17m to the northeast of its permitted location. Given the setback from the public road and existing mature hedgerow on the southern boundary of the appeal site and from existing houses, I consider that the house will sit comfortably at this location and will not have any adverse impacts on the visual or residential amenities of the area.

## **7.2. Road safety**

7.2.1. The appellants contend that a second entrance is not necessary and is contrary to both planning policy and practice in this rural area. They also contend that there was no issue with the sightlines at the existing entrance when permission was being



granted for the replacement house under the governing permission. They further state that the First Party's accession to close the existing agricultural entrance at this location in lieu of the newly proposed residential access is misguided as this entrance was only opened, without planning permission, in 2019.

- 7.2.2. I note the First Party's comments on planning policy for development on substandard roads. Objective IN 09 states that 'it is an objective of the Council to ensure that on roads that are substandard, either in terms of their width (less than 3m), alignment, surface condition or junction with the nearest main road, development will only be considered in exceptional circumstances'. I am satisfied that the proposal to open a new entrance on this local road does not contravene this policy.
- 7.2.3. I also note the First Party's revised site layout plan, with associated landscaping scheme, demonstrating 70m sightlines at the proposed entrance. On the day of my site inspection, I noted that the appeal site abuts a straight section of the local road and sightlines are readily achievable subject to the proposed minor amendments to the roadside boundary.
- 7.2.4. In relation to the Third Party's comments about the existing agricultural entrance, I note and consider there is merit in the First Party's contention that an agricultural entrance at this location would constitute exempted development. Notwithstanding this, I note that the First Party has clearly annotated on the revised site layout plan (drawing no. P01 A) submitted to the Planning Authority in response to the RFI on 25<sup>th</sup> June 2021 that this existing agricultural entrance is to be removed.
- 7.2.5. In conclusion, having regard to the limited number of vehicular movements arising from the form of development proposed on the appeal site, I consider that the proposed development would not result in a traffic hazard.

### **7.3. Other Issues**

#### Future development

The appellants are concerned that the proposed revisions would result in a parcel of land approx. 4/5 acres to the rear their houses may be the subject of future planning applications. They also contend that it remains open to the landowner to develop the derelict cottage and outbuildings. These concerns are noted however, I consider that these are not matters directly relevant to this appeal. If such development is

proposed, these planning applications will have to be assessed against relevant policies and development standards in place at that time.

#### Location of the septic tank

The appellants contend that the location of the septic tank associated with the bungalow on the First Party's family land holding has not been indicated on the site layout plan. I am satisfied that this is not a matter for consideration under this appeal as the proposed development only relates to alterations to the site boundaries, repositioning the permitted house to the northeast, and the provision of a new vehicular entrance.

#### Private views

The appellants express concerns about the impact that the proposed development of an access road with associated landscaping will have on their private views. The potential impacts of a proposed development on the appellant's private views will be limited to the impacts from the proposed landscaping associated with the new access road. I consider that the impact on the appellant's views will be minimal and would not form a basis to refuse permission. I do note that the First Party states that the native hedgerow planting along the proposed driveway will not exceed 1m in height however, I do not consider it necessary to recommend a condition limiting the planting to this height.

#### Flooding

In response to the RFI request from the Planning Authority, the First Party submitted a Site-Specific Flood Risk Assessment on 25<sup>th</sup> June 2021. The consulting engineer clearly identifies the drainage channel to the east of the appeal site and states that the Preliminary Flood Risk Assessment (PFRA) indicates that the appeal site is outside both the fluvial and tidal floodplain, although a very small portion of the south eastern corner of the appeal site is shown within Fluvial Flood Zone A. They state that this may be due to the resolution of the PFRA maps and does not pose a risk to the appeal site. Having regard to the above, I consider that the proposed development is not at risk of flooding and will not impact neighbouring properties as a result of any displacement.

## 7.4. Appropriate Assessment

- 7.4.1. Having regard to the nature and scale of the development proposed which is for revisions to a permitted development and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European site (Glen Bog SAC (site code: 001430) approx. 3.7km to the southeast), 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.

## 8.0 Recommendation

I recommend that planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

## 9.0 Reasons and Considerations

Having regard to the nature and extent of the proposed development which comprises of revisions to a previously permitted development on the site, the policy for replacement dwellings for the area, it is considered that subject to compliance with conditions below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be acceptable in terms of traffic safety. The proposed development 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 25 <sup>th</sup> day of June 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
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	<p>development shall be carried out and completed in accordance with the agreed particulars.</p> <p><b>Reason:</b> In the interest of clarity.</p>
2.	<p>This permission is subject to the terms of the governing permission (P.A. ref. no. 18/855), except where departure from the terms of that permission, in respect to alterations to site boundaries, new vehicular entrance to replace the permitted entrance off the existing driveway, and repositioning of the permitted house on the site, is hereby authorised by this permission. This permission and the governing permission will expire on the 19<sup>th</sup> day of November 2023.</p> <p><b>Reason:</b> In the interest of clarity.</p>
3.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.</p> <p><b>Reason:</b> In the interest of public health.</p>
4.	<p>Site development and building works shall be carried out only between the hours of 0700 to 1900 Mondays to Fridays inclusive, between 0900 to 1300 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.</p> <p><b>Reason:</b> In order to safeguard the residential amenities of property in the vicinity.</p>

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Liam Bowe  
Planning Inspector

3<sup>rd</sup> March 2022