



An
Bord
Pleanála

Inspector's Report

ABP-311983-21

Development	The construction of a new single storey house complete with a domestic garage, effluent treatment system and a new site entrance
Location	Annagh, Lisnagry, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	21682
Applicant(s)	Bríd Coughlan & David Doyle
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party
Appellant(s)	Mike Blackwell
Observer(s)	None
Date of Site Inspection	24 th February 2022
Inspector	Liam Bowe

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Annagh, approx. 5km off the M7 motorway at Castletroy exit. The site is accessed by means of a local road serving the area of Annagh and Lisnagry which branches off the R503 Newport Road, close to the motorway exit. This is a rural area which is characterised by farmland with a considerable level of one-off houses. It is in close proximity to Limerick City and seems to be one which is under considerable pressure for one-off housing, as evidenced by the extent of single houses in the overall area. The road serving the site is a local rural road which is characterised by several one-off houses in the vicinity of the site and there is a crossroads c.50m to the south.
- 1.2. The appeal site is rectangular in shape and has frontage to the local road to the west. It comprises part of a larger field with hedgerow and one mature tree along its frontage. The site is below road level, low-lying and is relatively level with the ground levels generally falling to the east. There are utility poles running along the roadside boundary and a number of road traffic signs warning of the proximity of the junction to the south. There is a bungalow in the same field to the south of the site and a two-storey house on the opposite / western side of the road. A church in ruins (Annagh Church) and a graveyard (Recorded Monument LI006-01501/02) is located a short distance north of the site.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a single storey house with a floor area of 174m². It also includes the construction of a detached single-storey garage, with a floor area of 60m², sited to the rear and southeast of the proposed house. The development is proposed to be served by a mains water supply and a proprietary wastewater treatment system. The site area is stated to be 0.303 hectares.

3.0 Planning Authority Decision

3.1. Further Information Request

- 3.1.1. Prior to issuing a notification of decision, the Planning Authority issued a further information request on 13th July 2021 requiring details in relation to a sterilisation agreement, land registry and location of the applicant's family home, a landscaping scheme, relocation of the proposed entrance / road signs, a letter of consent from the utility company, and a request to address the third party objections.
- 3.1.2. The applicants responded to the RFI on 24th August 2021 submitting to the Planning Authority confirmation that the landowner would enter a Section 47 sterilisation agreement, folios and details of the family home, a detailed landscaping scheme confirming the mature tree at the roadside boundary will be removed, a revised layout for the road warning signs, and letter from the ESB agreeing to alter lines if necessary.
- 3.1.3. Clarification of further information was sought by the Planning Authority on 16th September 2021 requiring a signed Section 47 agreement with the Planning Authority sterilising the remainder of the landholding owned by the landowner.

3.2. Decision

By order dated 22nd October 2021 Limerick City and County Council issued notification of the decision to Grant Permission for the proposed development subject to 20 No. standard conditions. The Conditions include inter alia the following:

- Condition No. 3: 7 years occupancy agreement.
- Condition No.5: Retention of roadside boundary.
- Condition No.18: Confirming Section 47 agreement sterilising the remainder of the landholding.

3.3. Planning Authority Reports

3.3.1. Planning Reports

There are three Planning Reports on file dated 12th July 2021, 10th September 2021 and 18th October 2021, respectively. The Planning Officer in the initial report noted the location of the site is in an Area under Strong Urban Influence in the Limerick CDP, that Objective RS01 applied and that it was considered that the applicants appeared to demonstrate compliance with this objective but recommended further information regarding the location of the applicant's family home as well as requiring details on a sterilisation agreement, a landscaping scheme, relocation of the proposed entrance / road signs, a letter of consent from the utility company, and a request to address the third party objections, 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 10th September 2021) refers to the further information submitted and considered that, having regard to the additional information, clarification was required in relation to the Section 47 sterilisation agreement.

The third Planner's Report (dated 18th October 2021) refers to the clarification of further information submitted and considered that, having regard to this clarification, permission should be granted subject to 20 No. conditions.

3.3.2. Other Technical Reports

Roads – The Roads Engineer report (dated 31/08/2021) stated that the existing mature tree does not affect sightlines and has no objection to the proposed development, subject to a condition requiring agreement on the relocation of the road signage.

Environment – The Executive Engineer stated that there was no objection to the application on environmental grounds and recommended that permission be granted, subject to conditions regarding the installation of the DWWTS.

Archaeology – The Executive Archaeologist recommends that a belt of trees be planted to reduce the visual impact on the national monument to the north west.

Environment, Recreation & Climate Change – Confirms that subject site is located in Flood Zone C and no issues arise.

3.4. **Prescribed Bodies**

Irish Water – No objection. Recommended conditions.

3.5. **Third Party Observations**

An objection to the proposal was received from Mike Blackwell and the grounds of appeal reflect the concerns raised in this submission. These include concerns regarding multiple speculative developments on the proposed site, lack of rural housing need, proximity to recorded monument, and road safety.

4.0 **Planning History**

4.1. **Appeal site:**

ABP-300321-17 (P.A. Ref. No. 17/732): Permission refused for the construction of a house for reasons relating to the absence of any identified locally based need for a house in this rural area.

4.2. **Adjacent sites to the west and south:**

P.A. Ref. No. 08/1767: Permission granted for the construction of a house.

P.A. Ref. No. 15/939: Permission granted for the construction of a house.

Condition no.12 required the landowner(s) to enter into a Section 47 agreement with the Planning Authority sterilising the remainder of the overall landholding.

5.0 **Policy Context**

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

Rural Settlement Policy

The Plan states that the Planning Authority will favour appropriate development within designated villages and settlements over urban generated rural housing.

Relevant policies include the following:

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.

Policy RS P3

It is a policy of the Council to apply a presumption in favour of granting planning permissions to applicants for rural generated housing where the qualifying criteria set down in objectives RS O1 to RS O8 are met and where standards in relation to siting, design, drainage and traffic safety set down in the Plan are achieved.

The site of the proposed development is located within an area designated a Rural Area under Strong Urban Influence.

Relevant objectives include:

Objective RS O1: Single Houses in Area under Strong Urban Influence

It is an objective to recognise the individual housing needs of people intrinsic to the rural areas located within the areas defined as 'rural areas under strong urban influence'. Such needs may be accommodated on lands within 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 under strong urban influence 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; or
- (b) the applicant is engaged in working the family farm and the house is for that person's 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 spent a substantial period of their lives (minimum 10 years).

5.2. Natural Heritage Designations

5.2.1. There are two European Sites in the vicinity of the appeal site. These are:

- Lower River Shannon SAC (Site Code: 002165) approx. 600m to the northwest.
- Slievefelim to Silvermines SPA (004165) which is located approx. 3km to the east.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development and the 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

The grounds of appeal are submitted by Mike Blackwell, Churchfield, Annagh, Lisnagry, Co. Limerick. The main points made can be summarised as follows:

- Contends that Limerick County Council (LCC) intended to sterilise the landholding under the previous permission (P.A. Ref. No. 15/939) issued on this landholding but, due to clerical error, this did not occur.
- States that LCC have accepted a Section 47 sterilisation agreement with the landowner under the current application with an expiry date after 15 years.
- Contends that applicants do not have a 'Local Rural Housing Need'.

- Contends that the applicants / landowner removed the incorrect mature tree to facilitate the provision of sightlines, but also contend that the removal of the mature tree within the appeal site would be contrary to planning guidelines.
- Contends that the proposed development would create a traffic hazard due to the substandard nature of the public road and lack of adequate sightlines to the west at the adjacent road junction.
- Contends that the removal of the mature tree opposite Annagh Church (national monument) by the landowner demonstrates a lack of respect for the church and graveyard.

6.2. Applicant Response

A response to appeal is submitted by Joseph Barry, Arch. Tech. / Surveyor, on behalf of the First Party. The main points made can be summarised as follows:

- States that the landowner has entered into a Section 47 sterilisation agreement.
- Includes a map demonstrating the applicant's (Bríd Coughlan) family home and current place of residence.
- States that the decaying tree on the landholding was removed for safety reasons and the applicants have agreed to remove the tree at the roadside boundary of the appeal site once planning is granted.
- Contends that the public road is not substandard.
- Contends that the proposed house will have no impact on the rural landscape.

6.3. Planning Authority Response

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

7.0 Assessment

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

- Rural Housing Policy
- Sterilisation of land
- Traffic safety
- Archaeological impact
- Other Issues
- Appropriate Assessment

7.1. Rural Housing Policy

7.1.1. The site of the proposed development is located in a rural area that is designated as an 'Area under Strong Urban Influence' in the Limerick County Development Plan and also is illustrated as such in "Map 1: Indicative Outline of NSS Rural House Types" in the Sustainable Rural Housing Guidelines for Planning Authorities. This is a rural location that is a short distance from Limerick City. Based on available mapping and my observations at the time of site inspection, it is under severe pressure for one-off housing and, in the wider environs, it is succumbing to such pressure with a proliferation of one-off houses arising. It is, therefore, in the interest of protecting investment in public infrastructure to provide for the needs of urban generated development and in the interest of protecting the amenity of this rural area, that further urban-generated housing and housing proposed by those with no association with the land or the location in which a development is proposed are avoided.

7.1.2. The above is supported in the recently published National Planning Framework. The Framework 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 overdevelopment, 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.

- 7.1.3. I note that the First Parties did not complete the supplementary planning application form. David Doyle did not provide any documentary evidence of his address with the planning application. Bríd Coughlan submitted a letter from her employer in Limerick City addressed to her homeplace and stated current place of residence. No details from state bodies/agencies confirming the First Party's addresses and residences in the local area are submitted. Similarly, no details of any economic need to reside at this location are submitted with the application or appeal.
- 7.1.4. I note from the details provided in response to this appeal that the applicant's (Bríd Coughlan) family home is stated as 1.7km from the appeal site, although no documentary evidence is submitted in support of this. I also note that her current place of employment is in Limerick City. No details have been submitted in relation to David Doyle's place of employment. On the basis of the above, I consider that the proposed development of a house at this location appears to be speculative and it is urban generated as no evidence has been submitted by the First Parties to demonstrate otherwise and, therefore, such that it clearly conflicts with the provisions of the Sustainable Rural Housing Guidelines and the National Planning Framework.
- 7.1.5. With regard to compliance with the rural housing policy set out in the development plan, given the location of the appeal site in an area designated as being under strong urban influence, the applicants are required to demonstrate compliance with policy Objective RS 01. In terms of Objective RS 01 and the requirements of the rural housing policy, this can be summarised as follows:

- (a) The application / appeal is not being made by a long-term landowner or his/her son or daughter seeking to build their first home on the family lands as the site is being purchased from a separate landowner,
- (b) The applicants are not engaged in working a family farm,
- (c) The applicants have not provided information of working in essential rural activities,
- (d) It is not clear on the basis of the information provided with the application or appeal that the applicants are local rural persons consistent with the development plan who for family and/or work reasons wish to live in the local rural area.

7.1.6. On the basis of the above, I do not consider that either of the applicants have provided a clear basis for compliance with the rural housing policy set out in the Limerick County Development Plan or forms a basis for a need to live at this rural location.

7.1.7. In conclusion, I consider that the applicants have not demonstrated a rural housing need in accordance with the plan policy within this area. I also consider that the established rural settlement policies for the area, which seek to avoid the overdevelopment of rural areas under strong urban influence, and to direct such development to towns and villages, would be contravened. The proposed development would, therefore, conflict with the provisions of the National Framework Plan (2018), the Sustainable Rural Housing Guidelines for Planning Authorities (2007) and would contravene the objectives of the Limerick County Development Plan (2010-2016 as extended) in relation to rural settlement.

7.2. **Sterilisation of Land**

7.2.1. The issue of sterilisation of land should not arise in this instance the applicants have not established a clear economic or social need to reside at the location proposed and where they have not demonstrated a rural housing need. Notwithstanding this, I acknowledge the intent by the planning authority to seek to limit further unnecessary housing at this location in the event of a grant of permission and where the land has already been subject to a grant of permission on the adjacent site to be occupied by persons other than the original landowner. I also acknowledge, however, the issues that the appellant raises and that there appears to be an error in that the appeal site

was intended to be covered by a sterilisation agreement under condition no.12 of the permission issued under P.A. Ref. No. 15/939. However, this agreement was never finalised despite compliance being issued by the Planning Authority. This has enabled another application to be made (i.e. this current application) where it appears that the original intent of the planning authority was not to do so. Following on from this, the planning authority's decision with the current application was to acquire an agreement under Section 47 to sterilise the remainder of the land from further housing.

- 7.2.2. In conclusion, I consider that this issue must ultimately be tied back to the issue raised at the outset of this assessment, namely rural housing need and the need to control the unnecessary proliferation of housing, which the Section 47 agreements seek to achieve. In the context of my conclusion that there is no rural generated housing need associated with the proposed development, there should be no requirement for any Section 47 agreement to sterilise this landholding.

7.3. **Traffic Impact**

The appellant contends that the proposed development would create a traffic hazard due to the substandard nature of the public road and lack of adequate sightlines to the west at the adjacent road junction. I also note the appellant's concerns regarding the removal of a mature tree on the roadside boundary to facilitate the provision of adequate sightlines.

- 7.3.1. The proposed development would be accessed via a narrow local road where two-way vehicular traffic is difficult to accommodate. I consider available sightlines at the proposed entrance would meet acceptable standards, without the removal of the mature tree on the roadside boundary. I also note that the site is close to a junction with another local road lying a short distance to the south. The three existing road signs along the western roadside boundary of the appeal site warning road users approaching this junction could be moved to facilitate a new entrance for the proposed house and are not therefore such as to restrict sightlines.
- 7.3.2. From my observations, the junction to the south of the appeal site has restricted visibility, particularly in a western direction when exiting from the local road serving the appeal site. I note, however, that this is an established junction at present accommodating a relatively low level of traffic which serves the needs of those

working and residing in the area. While the inadequacy of the road network further highlights the unsustainability of seeking to accommodate persons with no demonstrable rural housing need at this location, for the above reasons, I do not consider that a refusal of permission on traffic grounds alone would be merited.

7.4. Archaeological Impact

- 7.4.1. The appellant contends that the removal of the mature tree opposite Annagh Church (national monument) by the landowner demonstrates a lack of respect for the church and graveyard, whereas the First Party contends that the proposed house will have no impact on this rural landscape.
- 7.4.2. Annagh Church and Graveyard is a national monument (Recorded Monument LI006-01501/02) that lies more than 80 metres to the north of the site. I consider that the proposed development would not have any direct impact on the existing monument due to its separation distance. In terms of indirect impact, I note that the church and graveyard are located in open countryside where there is a high degree of visibility over an expansive landscape comprising a network of fields. I consider the removal of the mature tree opposite the church and graveyard and c.80m to the north of the appeal site not to be a matter that can be included in the assessment of this appeal.
- 7.4.3. However, the issue of the visual intrusiveness of a modern house at this location may reasonably be viewed as a matter requiring attention if a house was to be accommodated on the appeal site, in order to protect the integrity of the setting of the church and graveyard. The Planning Authority's archaeologist has taken a balanced approach to this issue, requesting the provision of suitable planting to limit the intrusion that would arise. I agree with this approach and, consequently, I consider that, subject to conditions regarding planting and landscaping of the site, the proposed house would not have a significant impact on the setting of the nearby national monument.

7.5. Other Issues

7.5.1. Design / Visual impact

As stated earlier in this report, the proposed development comprises the construction of a single storey house with a floor area of 174m² and it also includes the

construction of a detached single-storey garage, with a floor area of 60m², sited to the rear and southeast of the proposed house. It is proposed to be sited at a finished floor level c.1m below the public road level.

I consider the proposed house design to be simple in form and traditional in design. I am satisfied that the proposed house would not present any significant adverse visual impact on this rural landscape, subject to the provision of suitable planting as advised by Planning Authority's archaeologist.

7.5.2. Wastewater treatment and disposal

7.5.3. It is confirmed within the Site Characterisation Report that the appeal site is located over a locally important aquifer with moderate vulnerability, which requires a Groundwater Protection Response of R1. The First Parties excavated the trial hole to a depth of 2.1m and recorded that the water table was not located at this depth. The T Value is stated as 3.61 indicating fast draining soil. Based on these results, the Site Assessor recommended a proprietary wastewater treatment system with secondary and tertiary treatment.

7.5.4. On the day of my site inspection, I noted that there was ponding on the eastern portion of the field that the appeal site is in, although ground conditions on the appeal site were good and consistent with those described within the Site Characterisation Report.

7.5.5. Based on the material submitted with the application and my observations of the site, I consider that the appeal site is suitable for the safe disposal of domestic effluent and, with the installation of a proprietary wastewater treatment system, that the proposed development would not create a serious risk of ground water pollution.

7.6. **Appropriate Assessment**

7.6.1. The closest European sites are Lower River Shannon SAC (Site Code 002165), which is located c.600m to the north and Slievefelim to Silvermines SPA (004165) which is located c.4km to the east.

7.6.2. The site is situated approx. 600m to the south of Annagh River, which forms part of the Lower River Shannon SAC. There is no known hydrological link to the river or SAC. Given the small scale of the development, the distances involved, and the

absence of any indication of a clear hydrological link to the European sites, it is considered that Appropriate Assessment issues can be ruled out at this stage.

8.0 Recommendation

8.1. It is recommended that planning permission be refused for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to:

- the location of the site within a rural area identified as being under strong urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005,
- National Policy Objective 19 of the National Planning Framework (February 2018) which seeks 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, having regard to the viability of smaller towns and rural settlements,
- The provisions of the Limerick County Development Plan 2010-2016 (as amended) and specifically Objective RS 01, which facilitates the provision of rural housing for local rural people building in their local rural area (defined as within 10 kilometres radius of the where the applicant has lived or was living), and
- The documentation on the file including details of the applicant's links with Limerick City and current employment,

the Board could not be satisfied on the basis of the information on the file that the applicants came within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines or the definition of a local rural person in accordance with the relevant criteria of the development plan.

The proposed development, in the absence of any identified locally based need for a house at this location, would result in a haphazard and unsustainable form of development in an unserved area, 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 and undermine the settlement strategy set out in the development plan. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Liam Bowe
Planning Inspector

7th March 2022