



An
Bord
Pleanála

Inspector's Report ABP 313300-22.

Development	Construction of a house.
Location	Kilbreddy, Kildimo, Co. Limerick.
Planning Authority	Limerick County Council.
Planning Authority Reg. Ref.	211778
Applicant	Kenneth O'Donoghue
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellants	(1) Anne and Geoffrey Blondelle (2) Martin and Antoinette Corrigan
Observers	Emily and Denis Collins
Date of Site Inspection	23 rd November 2022
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Kilbreedy, Co. Limerick approximately 3.4km south of the N69 and approximately 21km to the south-west of Limerick City. The site lies within a rural agricultural area with sporadic one-off housing along the surrounding roads.
- 1.2. The appeal site is roughly rectangular in shape and has a stated area of 0.3037 hectares. It comprises the north-eastern corner of a larger open agricultural field which a gentle slope from the north to the south. The northern roadside boundary of the site with the public road comprises a section of stonewall ditch and hedgerow.
- 1.3. There is an existing gated agricultural access to the site from the local road L-60141-162. There are three dwellings in ribbon development pattern on the opposite side of the road to the north of the site and these include the appellant's properties.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a dwelling with an on-site effluent treatment system. The proposed dwelling has a dormer design with a ridge height of 7.5m and a floor area of 230.24sq m. A detached garage of 43.3sq m is also proposed.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the development subject to 15 no. conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Report dated 17th February 2022 – The Planning Authority sought further information in relation to the following. It has not been demonstrated that the 70m sightlines required on this low speed road are achievable in either direction. The applicant is

requested to submit a revised proposal showing achievement of these sightlines with any boundary alterations shown. A letter of consent from neighbouring landowners will be required should their boundary require alteration.

Report dated 22nd March 2022 – The Planning Authority were satisfied with the response to further information provided in respect of the proposed vehicular entrance and provision of adequate sightlines. Permission was recommended for the proposed development.

3.2.2. Other Technical Reports

Roads Section: Report dated 28th January 2022 – Further information was sought in relation to the provision of adequate sightlines.

Environmental Services Section – No objection subject to conditions.

3.3. Prescribed Bodies

3.3.1. No submissions

3.4. Third Party Observations

3.4.1. The Planning Authority received three submission/observation in relation to the application. The main issues raised are similar to those set out in the observation to the appeal.

4.0 Planning History

4.1.1. None

5.0 Policy Context

5.1. National Policy

5.1.1. Sustainable Rural Housing Planning Guidelines DOE 2005

5.1.2. The site of the proposed development is located within an area designated as being under strong urban influence. The Guidelines distinguish between ‘Urban Generated’ and ‘Rural Generated’ housing need. Example of situations where rural generated

housing need might apply as set out in the Guidelines include rural houses for persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas.

5.2. National planning Framework (NPF)

5.2.1. National Policy Objective 19

5.2.2. 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:

5.2.3. In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstratable 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 settlement.

5.3. Climate Action Plan 2023

5.3.1. The plan implements the carbon budgets and sectoral emissions ceilings and sets a roadmap for taking decisive action to halve out emissions by 2030 and reach net zero no later than 2050.

5.3.2. Chapter 15 refers to Transport

5.3.3. Section 15.3.2 – refers to Avoidance

5.3.4. It seeks to deliver systems change, policy measures aimed at better aligned transport and spatial and land use planning are critical. Policies already in place in this context are the NPF, Housing for All (HfA) and Town Centre First (TCF) and a number of relevant actions are already reflected in the SMP.

5.4. Development Plan

5.4.1. The operative plan is the Limerick Development Plan 2022 – 2028.

5.4.2. Chapter 4 refers to Housing

5.4.3. Section 4.4 refers to Rural Housing

5.4.4. Objective HO O20 – Rural Areas under Strong Urban Influence

It is an objective of the Council to consider a single dwelling for the permanent occupation of an applicant in the area under Strong Urban Influence, subject to demonstrating compliance with ONE of the criteria below:

1. Persons with a demonstrable economic need to live in the particular local rural area; Persons who have never owned a house in the rural area and are employed in rural-based activity such as farming/bloodstock, horticulture or other rural-based activity, in the area in which they wish to build, or whose employment is intrinsically linked to the rural area in which they wish to build, or other persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work (within 10km). (Minimum farm size shall be 12 hectares for farming or bloodstock). The applicant must demonstrate that they have been actively engaged in farming/bloodstock/horticulture or other rural activity, at the proposed location for a continuous period of not less than 5 years, prior to making the application. In the event of newly acquired land, to demonstrate that the proposed activity would be of a viable commercial scale, a detailed 5-year business plan will be required.
2. Persons with a demonstrable social need to live in a particular local rural area; Persons who have never owned a house in the rural area and who wish to build their first home on a site that is within 10km of where they have lived for a substantial period of their lives in the local rural area (Minimum 10 years). The local rural area is defined as the area outside all settlements identified in Levels 1 – 4 of the Settlement Hierarchy. Excluding Level 4 settlements, where there is no capacity in the treatment plant.
3. Persons with a demonstrable local exceptional need to live in a particular local rural area, examples include:
 - (a) Returning emigrants who have never owned a house in the rural area, in which they lived for a substantial period of their lives (Minimum 10 years), then moved away or abroad and who now wish to return to reside in the local rural area (within 10km of where they lived for a substantial period of their lives). The local rural area is defined as the

area outside all settlements identified in Levels 1 – 4 of the Settlement Hierarchy. Excluding Level 4 settlements, where there is no capacity in the treatment plant.

- (b) A person who has lived a substantial period of their lives in the local rural area, (at least 10 years), that previously owned a home and is no longer in possession of that home, due to the home having been disposed of following legal separation/ divorce/ repossession and can demonstrate a social or economic need for a new home in the rural area.

5.4.5. Chapter 11 refers to Development Management Standards

5.5. Natural Heritage Designations

- Curraghchase Woods SAC (Site Code 000174) is located circa 548m to the west of the appeal site.
- Askeaton Fen Complex SAC (Site Code 002279) is located circa 2.4km to the north of the appeal site.
- Lower River Shannon SAC (Site Code 002165) is located circa 4.4km to the east of the appeal site.
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) lies circa 6.3km to the north-east of the appeal site.

5.6. EIA Screening

5.6.1. Having regard to the limited nature and scale of the proposed development and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental assessment can therefore be excluded at preliminary examination.

6.0 The Appeal

6.1. Grounds of Appeal

Third party appeals have been submitted by (1) Anne & Geoffrey Blondelle (2) Martin and Antoinette Corrigan. The issues raised are as follows;

(1) Anne & Geoffrey Blondelle

- The appeal refers to the proposed vehicular access and it is stated that to fully achieve the 70m sightline to the east the boundary wall and hedge of the neighbouring landowner will require alteration and therefore consent.
- It is stated that the further information submission and drawings provided to the Planning Authority are incorrect. They contend that the site boundaries are incorrectly positioned.
- The applicant has provided a letter from the ESB regarding the relocation of some poles however no letter from the telecommunications company was provided regarding the setback of 3 poles to achieve the sightlines.
- The appellants have expressed concerns in relation to potential impacts to groundwater regarding yields available to existing water sources and risk of contamination.
- It is stated in the report of the Planning Officer that the site is located in an area of strong agricultural base and that the applicant complies with Objective IN O9. Objective IN O9 as defined in the Limerick Development Plan states that it is an objective to ensure development will only be considered in exceptional circumstances. A presumption in favour of family members and long-term landowners will be considered in exceptional circumstances where no alternative site is available.
- The site location and landholding maps on file indicate that there are alternative sites available to accommodate the proposed development. It is stated that the Planning Authority did not take this into consideration.
- It is considered that the proposed development would create a precedent for further similar development.

- The proposed vehicular entrance is located close to existing entrances. Concern is expressed in relation to the additional traffic which the proposed development would generate on the local road which is stated has insufficient capacity.
- It is stated that site is located within Curragh Chase Woods SAC (Site Code 000174).
- The construction of the dwelling would entail the removal of over 70m of original stone wall, hedges and trees.
- The site itself is a higher elevation than the appellant's property and most surrounding houses. The proposed ridge height of the dwelling at 8.3m is higher than surrounding properties.
- In relation to the design of the dwelling, 11 no. windows are proposed to the front elevation which address the road. Concern is expressed that the proposed development would cause overlooking and would have an undue intrusive impact upon the surrounding residential properties.
- The design statement provide by the applicant acknowledges privacy concerns in relation to neighbouring dwellings. However, the appellants are not satisfied that the design has had due regard to the site context and surrounding properties including theirs.
- They contend that the proposed development will directly overlook their dwelling and unduly impact upon their privacy.
- The matter of network internet coverage is raised. It is stated that coverage is already very limited and that the proposed development would further impact the coverage due to the height of the proposed dwelling.
- The matter of domestic waste collection is raised it is stated that due to the road width and condition that local providers no longer service this location.
- It is requested that the Board refuse permission for the reasons set out in the appeal.

(2) Martin and Antoinette Corrigan

- The appellant's house is located to the north of the appeal site.

- They object to the proposed dwelling based on its location relative to their home and the design of the dwelling which features 10 no. windows and 1 no. rooflight which face their property. They consider that the proposed development will result in overlooking of their property.
- It is stated that the height of the proposed dwelling would exceed most of the surrounding properties.
- Concern is expressed in relation to noise and dust which would be generated by the proposed development.
- The matter of potential impact on internet coverage is raised.
- In relation to the proposed vehicular entrance the appellants have raised the matter of the sightlines. They state that the applicant has not provided a letter of consent from the neighbouring landowner to the east. It is noted that the applicant has provided a letter of consent from the landowner of the site Mrs Kathleen O'Neill. However, the appellants question whether a clear sightline of 70m can be achieved to the east.
- Concern is expressed that the site is located on a narrow cul-de-sac and that the proposed development would generate additional traffic in close proximity to existing entrances.
- The appellants consider that the proposed development would set an undesirable precedent for other similar development.
- The appellants request that the Board refuse permission.

6.2. Applicant Response

A response to the third party appeals was submitted by Kildimo Planning Service on behalf of the applicant Kenneth O'Donoghue. The issues raised are as follows;

- The grounds of appeal raised the matter of sightlines available to the east. It is stated that case made in the appeals regarding the available of sightlines to the east are inaccurate and misinformed. It is confirmed that the stone ruin in question is wholly within the curtilage of the owners landholding.

- A letter of consent from the landowner Kathleen O'Neill was submitted as part of the application and a further letter was submitted as part of the response to further information request.
- A letter is provided with the appeal response from the landowner. It states that the ruins of the old house that are on the proposed site at Kilbreedy, Kildimo are located solely on her land. The section of the wall on the bounds can be retained inside the sightline.
- It is stated that the stone wall of the ruin on the boundary can be left in place to avoid any opening between the subject field and the adjacent agricultural field.
- The 2 no. utility poles along the road that are to be relocated as indicated on the site layout drawing. This will be carried out by the service provider once development commences.
- The appeal from the Blondelles refers to concerns in relation to water contamination. Maps from the Geological Survey of Ireland have been included with the appeal response. This indicates that the ground water flow is from north to south. The contour lines show an elevation of 40m to the north. It is stated in relation to groundwater flow direction that in the Site Suitability Assessment for on-site Wastewater Treatment Systems, Manual that "gravity is the dominant driving force and so under natural conditions, groundwater moves downhill until it reaches the land surface at a spring or groundwater flows, from the groundwater divide (high head) to the stream (low head)."
- The maps from the Geological Survey of Ireland also show the direction of flow of the water along the streams in the locality which run contrary to that depicted on the map submitted by the Blondelles.
- The grounds of appeal refer to the area of strong agricultural base. It is stated that while other lands are under the ownership of the landowner it does not mean that they are suitable. Many factors need to be taken into consideration topography, site suitability characteristics, access and sightlines, hedgerow maturity and views.

- It is argued that the proposed development does not set a precedent for further development for the reason that the applicant must comply with Objective IN09 of the Development Plan.
- As defined in the Limerick County Development Plan in Objective IN09, it is an objective to ensure development will only be considered in exceptional circumstances. A presumption in favour of family members and long-term landowners will be considered in exceptional circumstances, where no alternative site is available.
- In relation to the proposed site entrance, it is located opposite both parties the Blondelles and the Corrigans. It is put forward that the proposal does not create an issue or a safety risk as it would result in the widening of the road. The site boundaries are proposed to be setback as requested by Limerick City and County Council. It is submitted that the increased road width will therefore increase the roads capacity.
- Landscape and visual impacts are raised. The appeal from the Blondelles states that the site is at a higher elevation than their house and most of the houses on the road. In response it is stated that their house is at a similar contour to that of the proposed dwelling and that the dwelling to the north of the proposed dwelling are at a higher elevation.
- It is stated in the appeal that the 8.3m ridge height will exceed the height of most surrounding buildings. It is stated that the appellant have misinterpreted the drawings and that the height of the dwelling as granted is 7.5m.
- In relation to the matter of the removal of the 70m of original stone wall, hedges and trees it should be noted that the stone wall is low and falling away in sections and some hedgerow is mixed with briar along with one tree stump.
- In relation to the location of the site relative to Curraghchase SAC, a map included in the appeal response indicates the appeal site located outside and to the east of the boundary of the SAC.
- In relation to the matter of privacy it is stated that there is no possibility that the proposed dwelling will directly overlook the appellants property given that the appeal site is not directly opposite their site and the first floor windows of

the dwelling are over 100m from their dwelling. Planting and landscaping is proposed to the north-east and north-west of the site to assimilate the dwelling into the surroundings.

- The appeal site is opposite the dwelling of Martin & Antoinette Corrigan, the finished floor level of the proposed dwelling is far lower than that of their dwelling. Therefore, this difference in height negates any potential for overlooking. The Corrigan's have a mature hedgerow to the front of their dwelling which screens it from the local road. Furthermore, the proposed dwelling will be approximately 85m from the Corrigan's dwelling and therefore noise should not be of concern.
- The matter of network/internet coverage was raised in both appeals. In response it is stated that it is not feasible that a dwelling of 7.5m in height could have an impact on the broadband signals from local masts. It is noted that under the National Broadband Ireland rollout, Kilbreedy, Kildimo, Co. Limerick is in the process of being upgraded to high speed fibre broadband.
- Regarding the waste collection, it is stated that Clean Ireland Recycling continues to collect refuse at Kilbreedy, Kildimo, Co. Limerick. It is noted that they have changed their collection point at the top of the road.

6.3. Planning Authority Response

- None received.

6.4. Observations

An Observation to the appeal has been submitted by Emily and Denis Collins. The issues raised are as follows;

- The observers state that they are the neighbouring landowner to the east of the site.
- The Planning Authority in their assessment of the application sought further information. It was stated in the request issued that "it had not been adequately demonstrated that the 70m sightline could be achieved." It was stated in the further information request that 'a letter of consent from the

neighbouring landowner will be required should their boundary require alteration.

- The response submitted by the applicant stated that “sightlines of 70m, will be available to the east as shown on the site layout drawing, once the stone ruin is removed”. The applicant proposes to set the new front boundary back 0.5m behind the sightlines as indicated on the site layout drawing.
- In relation to the stone ruin it is stated that the east side of the ruin forms the boundary between the two land holdings. The observers state that it cannot be removed without their consent. They submit that if the east side of the building cannot be removed then the required sightlines cannot be achieved.
- The observers state that they have not been approach by the applicant in relation to any proposals to change or remove the boundary between their lands and the subject site.
- They raise concern that the location of the stone ruin is not accurately indicated on the submitted plans.
- Concerns are expressed regarding the proposed removal of over 100m of hedging, wall and trees. It is stated that it provides a natural screen between the existing housing.

7.0 Assessment

The main issues in this appeal are raised in the grounds of the appeals. Appropriate Assessment also needs to be addressed. I am satisfied that no other substantive issues arise. The issues can be dealt with under the following headings:

- Rural Housing policy
- Vehicular Access
- Siting and Design
- Effluent treatment
- Appropriate Assessment

7.1. Rural Housing policy

- 7.1.1. With regard to compliance with rural housing policy the proposal should be in accordance with the provisions of the Sustainable Rural Housing Guidelines and the provisions of the Limerick Development Plan 2022 – 2028, as it relates to settlement in rural areas. The appeal site is located in an area identified as an Area Under Strong Urban Influence on Map No.1 – Indicative Outline of NSS Rural Area Types in the Sustainable Rural Housing Guidelines. These areas are typically close to larger urban centres which are under pressure for housing in the countryside and have road networks which are heavily trafficked. The guidelines suggest that certain classes of persons e.g. those occupied full time or part-time in agriculture, forestry, those who are an intrinsic part of the rural community, sons/daughters of farmers and returning emigrants, may be considered for housing in the countryside.
- 7.1.2. Chapter 4 of the Limerick Development Plan 2022 – 2028 refers to Housing and Section 4.4 sets out policy in relation to rural housing. The site is located at Kilbreddy, Kildimo, Co. Limerick is located within the countryside. Within the open countryside, the Plan identifies two types of areas for rural housing: 1. Areas under urban influence and 2. Rural areas elsewhere. These two areas are identified on Map 4.1: Rural Housing Strategy Map. As illustrated on this map the appeal site is located with the Area of Strong Urban Influence.
- 7.1.3. Objective HO O20 of the Plan refers to Rural Areas under Strong Urban Influence. It states that it is an objective of the Council to consider a single dwelling for the permanent occupation of an applicant in the area under Strong Urban Influence, subject to demonstrating compliance with one of three criteria below.
1. Persons with a demonstrable economic need to live in the particular local rural area; Persons who have never owned a house in the rural area and are employed in rural-based activity such as farming/bloodstock, horticulture or other rural-based activity, in the area in which they wish to build, or whose employment is intrinsically linked to the rural area in which they wish to build, or other persons who by the nature of their work have a functional need to reside permanently in the rural area close to their place of work (within 10km). (Minimum farm size shall be 12 hectares for farming or bloodstock). The applicant must demonstrate that they have been actively engaged in

farming/livestock/horticulture or other rural activity, at the proposed location for a continuous period of not less than 5 years, prior to making the application. In the event of newly acquired land, to demonstrate that the proposed activity would be of a viable commercial scale, a detailed 5-year business plan will be required.

2. Persons with a demonstrable social need to live in a particular local rural area; Persons who have never owned a house in the rural area and who wish to build their first home on a site that is within 10km of where they have lived for a substantial period of their lives in the local rural area (Minimum 10 years). The local rural area is defined as the area outside all settlements identified in Levels 1 – 4 of the Settlement Hierarchy. Excluding Level 4 settlements, where there is no capacity in the treatment plant.
3. Persons with a demonstrable local exceptional need to live in a particular local rural area, examples include:
 - (a) Returning emigrants who have never owned a house in the rural area, in which they lived for a substantial period of their lives (Minimum 10 years), then moved away or abroad and who now wish to return to reside in the local rural area (within 10km of where they lived for a substantial period of their lives). The local rural area is defined as the area outside all settlements identified in Levels 1 – 4 of the Settlement Hierarchy. Excluding Level 4 settlements, where there is no capacity in the treatment plant.
 - (b) A person who has lived a substantial period of their lives in the local rural area, (at least 10 years), that previously owned a home and is no longer in possession of that home, due to the home having been disposed of following legal separation/ divorce/ repossession and can demonstrate a social or economic need for a new home in the rural area.

7.1.4. The applicant is Kenneth O'Donoghue. It is stated in the application form that he will purchase the site subject receiving planning permission. It is confirmed in a letter with the application that Mr. O'Donoghue is local to the area as he was born and raised in Kilbreddy, Kildimo, Co. Limerick. As detailed in the application form the applicant resides at his family home and lived there his entire life. The Site Location

Map submitted with the application indicates the site, the landholding the site is located on and also the location of the applicant's family home. His family home is situated circa 475m to the south of the appeal site.

- 7.1.5. In relation to the provisions of Objective HO O20, category two refers to persons with a demonstrable social need to live in a particular local rural area and who have never owned a house in the rural area and who wish to build their first home on a site that is within 10km of where they have lived for a substantial period of their lives in the local rural area (Minimum 10 years). In relation to the issue of a demonstrable social need, the applicant states in the letter with the application, that he requires to live close to his family home to provide care for his father and also work on their farm holding.
- 7.1.6. On the basis of the information provided on file, the applicant Kenneth O'Donoghue has demonstrated that he has a housing need for the specific area, and I conclude therefore that the applicant has demonstrated that they fall into a category provided for in Objective HO O20 of the Limerick Development Plan 2022-2028. Therefore, I conclude that the applicant meets the qualification criteria to build a rural dwelling at this location in accordance with the provisions of the Development Plan and the provisions contained in the Rural Housing Guidelines.

7.2. Vehicular Access

- 7.2.1. It is proposed to develop a vehicular access onto the local road L-60141-162. The grounds of appeal refer to the vehicular entrance and question whether adequate sightlines can be provided to the east due the presence of the ruined building. The appeals refer to the matter of ownership in respect of the ruin and it is contended that the applicant does not have consent of the relevant landowner to remove the ruin and therefore provide the sightline to the east.
- 7.2.2. In response to the matter, it is stated in submission from the applicant's agent that the stone ruin in question is wholly within the curtilage of the owners landholding. The first party response the appeal includes a letter of consent from the landowner Kathleen O'Neill. It is confirmed that the ruins of the old house that are on the subject site at Kilbreedy, Kildimo which is in the ownership of Kathleen O'Neill. The letter from the Kathleen O'Neill also suggests that the section of the wall on the boundary

can be retained inside the sightline in order to avoid any opening between the subject field and the adjacent agricultural field.

- 7.2.3. The grounds of appeal also express concern in relation to the removal 70m of hedgerow and wall required to be removed to construct the vehicular entrance. In response the first party state that it should be noted that the stone wall is low and is falling away in sections and with some hedgerow mixed with briar along with one tree stump. It is indicated on the revised Site Layout Plan that sightlines of 70m can be provided to the east and west and the proposed entrance. As detailed on the Site Layout Plan it is proposed to setback the low stone wall and remove the tree stump to the east of the proposed entrance and remove the fallen tree to the west of the proposed entrance. In relation to the reinstatement of the roadside boundary I am satisfied that it is proposed to construct a low wall where the existing is removed and I also note that within the site it is proposed plant new hedgerow along the roadside boundary.
- 7.2.4. Having inspected the site and viewed the location of the proposed entrance and having regard to the details set out above I am satisfied that an adequate sightline distance is available in both directions. Accordingly, I consider the proposed location of the entrance acceptable.
- 7.2.5. The proposed development, an individual dwelling would not generate substantial volumes of additional traffic. On inspection of the site, I noted that traffic volumes on this stretch of roadway are low and no vehicles passed at all during my site visit.
- 7.2.6. Accordingly, having inspected the site and local road in the vicinity and given the relative low volume of traffic using the public road, I am satisfied that the proposal would be acceptable from a traffic perspective.

7.3. **Siting and Design**

- 7.3.1. The appellants have raised concern at the design and location of the proposed dwelling. Concern is raised that the proposed dwelling would cause overlooking of their properties that it would negatively impact upon their residential amenities and that it would be visually obtrusive in the landscape. The proposed dwelling has a floor area of 230.24sq m, it is one and half storey of dormer design with a proposed

maximum ridge height of 7.5m. It is proposed to locate the dwelling a minimum distance of 30m from the public road to the north.

- 7.3.2. The grounds of appeal refer to level of fenestration proposed to the front elevation. The design of the front elevation features eleven windows. I note that at the first floor level, three windows and a rooflight are proposed to serve two bedrooms. I would not concur with the case made by the appellants that there is an excessive amount of fenestration proposed. In relation to the matter of potential overlooking, I note that the appellant's dwellings would be located over 80m from to the proposed dwelling at the closest points. Accordingly, having regard to the separation distances between the proposed dwelling and closest properties including the appellant's dwellings I do not consider that the proposed dwelling would cause overlooking of any existing dwellings or unduly impact upon residential amenities.
- 7.3.3. The proposed finished floor level of the dwelling is indicated as 9.0m this would be circa 1m lower than the level of the public road to the north at 10.0m. Having regard to the slope of the site, the proposed location of the dwelling 1m below the level of the road and the dormer design of the dwelling with a ridge height of 7.5m, I consider that the proposed dwelling can be successfully integrated within the landscape setting. Accordingly, I would consider that this development can be positively absorbed within any negative impacts on the visual setting and the rural amenities of the surrounding area.
- 7.3.4. It is indicated on the Site Layout that it is proposed to retain the existing hedgerow along the eastern site boundary. Additional tree planting in the form of a mixed variety of species is proposed to the front and to the western site boundary along with new hedging along the north, western and southern site boundaries. Should the Board decide to grant permission I would recommend that a condition be attached requiring that all existing trees and hedgerow be retained and that additional screen planting of native deciduous trees and shrubs be planted along all boundaries in the interest of visual amenity.
- 7.3.5. Having regard to the existing and proposed landscaping and tree planting I consider that the proposed dwelling can be successfully integrated within the landscape setting. Accordingly, I would consider that this development can be positively

absorbed without any negative impacts on the visual setting and the rural amenities and residential amenities of the surrounding area.

7.4. Effluent treatment

- 7.4.1. It is proposed to install a Tricel Novo wastewater treatment plant with a sand polishing filter which provides tertiary treatment. It is proposed to dispose of treated effluent via a polishing filter to groundwater. It is necessary to review the available information in order to ascertain if the subject site is suitable for the disposal of treated effluent to ground. The EPA 2021 Code of Practice – Domestic Waste Water Treatment Systems, (Population Equivalent ≤ 10) provides guidance on the site characterization, design, operation and maintenance of domestic waste water treatment systems.
- 7.4.2. The grounds of appeal refer to potential impacts upon groundwater in terms of the proposed effluent treatment system.
- 7.4.3. The percolation area is located on the Proposed Site Layout, circa 11.079m to the south of the dwelling and downhill. Regarding water supply a bored well is proposed on site circa 20m to the west of the dwelling and 30m uphill from the percolation area and 42m from the proposed waste water treatment plant. Table 6.2 of the EPA Code of Practice – Domestic Waste Water Treatment Systems sets out the minimum separation distances required from the entire domestic waste water treatment system (DWWTS). The minimum distance from a domestic well to the DWWTS is stated as 25m and 15m if the domestic well is up-gradient. The minimum distance from a watercourse or stream to is stated as 10m and the minimum distance from a road is stated as 4m. In relation to this I note that the DWWTS would be located 41m from the road to the north. Regarding the proximity of watercourses as detailed on the site characterisation form, I note that there are none within 250m.
- 7.4.4. The site is located in an area identified with a “Extreme” vulnerability classification in the GSI Groundwater maps and is located within area defined “Regionally Important” Aquifer category, representing a Groundwater Protection Response of R2² under the EPA Code of Practice Waste Water Treatment Systems (Population Equivalent ≤ 10) (2021) (Annex E).

- 7.4.5. The trial hole had a depth of 2.25m and the assessment submitted by the applicant indicates that bedrock was encountered at a depth of 1.95m. The watertable was not encountered within the trial hole.
- 7.4.6. The submitted site characterisation records provides details of the testing carried out on site. Subsurface percolation testing was carried out and a T-test value of 63.36 was recorded. Surface percolation testing was also carried out and a P value of 75.56 was recorded. Table 6.4 of the EPA Manual advises that where the P value is greater than 3 and less than 75 then the site is suitable for a tertiary treatment system and infiltration area. It is advised that if installed at the surface the subsurface percolation value must be between 3 and 90. Accordingly, the percolation test results are in line with the provisions of Table 6.4 of the EPA Manual.
- 7.4.7. The invert level of the distribution pipes is proposed to be 0.75m below the current ground level. It is proposed to construct the polishing filter from imported permeable soil. It is proposed to discharge the treated effluent to ground water. Having regard to the information submitted including the site characterisation report and the proposal to install a tertiary treatment system with soil polishing filter, I would concur with the assessment of the planning authority that site is suitable for the proposed on-site effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted. Furthermore, I note the recommendation from the Environmental Services Section which has no objection to the proposal subject to conditions.

7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the proposed development, and the separation distance to any European site, 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**

- 8.1. I recommend that permission is granted for the proposed development.

9.0 Reasons and Considerations

9.1. Having regard to the to the provisions of the Limerick Development Plan 2022-2028, the pattern of development in the area and to the nature and scale of the proposed development, 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 and would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. 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 to the planning authority on 2nd of March 2022, 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.

- (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.

- 3. The site shall be landscaped, using only indigenous deciduous plants 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. All existing trees and hedgerow be retained except the extent that its removal is necessary to provide for the site entrance. 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.

4.

- (a) The effluent treatment and disposal system shall be located, constructed and maintained in accordance with the details submitted to the planning

authority on the 20th day of December 2021, and in accordance with the requirements of the document “Wastewater Treatment Manual: Treatment Systems for Single Houses”, Environmental Protection Agency (current edition). Arrangements in relation to the ongoing maintenance of the system shall be submitted to, and agreed in writing with, the planning authority within six months of the date of this Order.

- (b) 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 in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

5.

(a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

(b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.

Reason: In the interest of traffic safety and to prevent pollution.

6. The water supply to serve the proposed dwelling shall have sufficient yield to serve the proposed development, and the water quality shall be suitable for human consumption. Details, demonstrating compliance with these

requirements, shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: To ensure that adequate water is provided to serve the proposed dwelling, in the interest of public health.

7. Details of the materials, colours and textures of all external finishes to the proposed dwelling shall be submitted to, and agreed in writing with, the planning authority prior to commencement of the development.

Reason: In the interest of visual amenity.

8. 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.

9. The proposed garage shall be used as a private domestic garage and shall not be at any time used for agriculture, industrial or commercial purposes or for human habitation.

Reason: In the interest of residential 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 hours 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 residential amenities of property in the vicinity.

11. 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.

Siobhan Carroll
Planning Inspector

10th February 2023