



An
Bord
Pleanála

Inspector's Report ABP 314155-22.

Development	Two-storey dwelling, vehicular entrance and on-site effluent treatment system.
Location	Castleroberts, Adare, Co. Limerick
Planning Authority	Limerick County Council
Planning Authority Reg. Ref.	2225
Applicant	Christine Lane
Type of Application	Permission
Planning Authority Decision	Grant permission
Type of Appeal	Third Party
Appellant	Brian Smith
Observers	None
Date of Site Inspection	2 nd May 2023
Inspector	Siobhan Carroll

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Castleroberts, Co. Limerick approximately 5.3km south of the Adare and 4.5km north of the village of Croom and approximately 19km to the south-west of Limerick City. The N20 is located 1.6km to the east of the site. The site lies within a rural agricultural area with sporadic one-off housing along the surrounding roads.
- 1.2. The appeal site has a stated area of 0.4605 hectares. It comprises the north-eastern section of a larger agricultural field which is relatively flat. The eastern roadside boundary of the site with the public road comprises a low wall and mature hedgerow.
- 1.3. There is an existing gated agricultural access to the site from the local road L1420. There are two dwellings immediately to the north of the site which includes the appellant's property. Fanningstown Castle which was built in the 12th century is situated 500m to the north-east.

2.0 Proposed Development

- 2.1. Permission is sought for the construction of a dwelling with an on-site effluent treatment system and vehicular entrance. The proposed dwelling has a two-storey design with a ridge height of 7.5m and a floor area of 253.3sq m.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The Planning Authority granted permission for the development subject to 17 no. conditions.

3.2. Planning Authority Reports

- 3.2.1. Planning Reports
- 3.2.2. Report dated 17th February 2022 – The Planning Authority sought further information in relation to the following.

(1) The site is within an Area of Strong Agricultural Base, the applicant was requested to demonstrate a housing need to live in the area and submit – full birth certificate (including name & address of parents) – copy of school roll – or any dated and addressed detailed evidence that you have resided in the area for a minimum of 10 year period.

(2)

(a) Clarify their relationship to the landowner and submit land registry and folio details for the landholding that the site is taken from.

(b) Clearly outline any right of way that is existing over the landholding that the site is taken from and demonstrate that the proposed site layout does not interfere with an existing right of way.

(3) Submit a revised proposal for a dwelling with a maximum ridge height of 7.5m.

3.2.3. Report dated 22nd March 2022 – The Planning Authority were satisfied with the response to further information provided in respect of the applicants demonstration of a housing need to live in the area. Permission was recommended for the proposed development.

3.2.4. Other Technical Reports

3.2.5. Roads Section: Report dated 2nd March 2022 – No objection subject to conditions.

3.2.6. Environmental Services Section: Report dated 22nd February 2022 – No objection subject to conditions.

3.3. **Prescribed Bodies**

3.3.1. Irish Water – No objection

3.4. **Third Party Observations**

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

4.0 Planning History

- 4.1.1. Reg. Ref. 05/3077 & PL13.215981 – Outline permission was refused to Padraig & Emily Clarke for the construction of a two-storey dwelling, entrance, treatment system, percolation area and ancillary works. Permission was refused by the Planning Authority and was refused by the Board. The reason for refusal issued by the Board referred to the applicant not coming within the scope of the housing need criteria as set out in the Development Plan and as such the proposed development would contravene the policies set out in the current Development Plan in relation to rural settlement which would contribute to the encroachment of ribbon development and would militate against the preservation of the rural environment.
- 4.1.2. Reg. Ref. 05/1212 – Outline permission was refused to Padraig & Emily Clarke for the construction of a two-storey dwelling, entrance, treatment system, percolation area and ancillary works. Permission was refused for two reasons. The first referred to the applicant not coming within the scope of the housing need criteria as set out in the Development Plan. The second was on the basis that the proposed development would contribute to the already extensive ribbon development in this rural area which is lacking in certain services and community facilities.

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. **Development Plan**

- 5.3.1. The operative plan is the Limerick Development Plan 2022 – 2028.
- 5.3.2. Chapter 4 refers to Housing
- 5.3.3. Section 4.4 refers to Rural Housing
- 5.3.4. 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.

5.3.5. Chapter 11 refers to Development Management Standards

5.4. **Natural Heritage Designations**

- Tory Hill SAC (Site Code 000439) is located circa 3.5m to the east of the appeal site.
- Lower River Shannon SAC (Site Code 002165) is located 3.8m to the north-west.

5.5. EIA Screening

- 5.5.1. 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

A third party appeal was submitted by Brian Smyth. The issues raised are as follows.

- It is stated that there should be a consistency of approach in assessing the proposal. It is highlighted that permission was refused for a dwelling on the site on three previous occasions, twice by the Council and once on appeal.
- Under Reg. Ref. 05/3007 & PL13.215981 permission was refused by the Board for the following reason.

The proposed site is located in an area under Strong Urban Influence, as identified in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005 and within an area of Strong Agricultural Base, as defined in the current Development Plan for the area. It is considered that the applicants have not demonstrated a housing need related to this rural location and the proposed development would contravene the policies set out in the current Development Plan in relation to rural settlement, would contribute to the encroachment of ribbon development and would militate against the preservation of the rural environment. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

- It is noted that the Sustainable Rural Housing Guidelines for Planning Authorities on page 12 states, “the planning system must aim for consistency

and transparency in the application and interpretation of development plan policy criteria in the assessment of all applications.”

- The appellant considers that the Planning Authority seems to have change how ribbon development is measured. The appellant considers that it is not appropriate to view the proposed dwelling as the first in a row rather than the last in a row which was done previously.
- In relation to ribbon development, page 55 of the Sustainable Rural Housing Guidelines is noted where it states, “areas characterised by ribbon development will in most case be located on the edges of cities and towns and will exhibit characteristics such as a high density of almost continuous road frontage type development, for example where 5 or more houses exist on any one side of a given 250m or road frontage.”
- The appellant states that from the first house at the crossroads to their house to the south is a distance of 246m. The proposed development would result in the siting of a sixth house within 250m on the L1420. The appellant states that the proposal would exacerbate and extend the ribbon development.
- The Adare Local Area Plan notes that as the first threat under its strength, weaknesses, opportunities, threats (SWOT) analysis detailed on Table 3.1 on page 32 that it states, “dispersed settlement away from the village centre”.
- The appellant puts forward that the circumstances concerning ribbon development which were outlined by the Council and the Board in relation to previous refusals on the site remain relevant to the current application.
- Recent decisions of the Board, ABP 309962-21 and ABP 308570-20 are cited as similar cases where permission was refused in County Limerick where the matter of ribbon development was referred to in the refusal.
- Concern is expressed in relation to the realignment of the entire site frontage to provide sightlines at the vehicular entrance. It would involve the removal of over 100m of roadside boundary. A section of the old stone wall would be removed. This is stated as being an important section of boundary wall between the townlands of Castleroberts and Fanningstown.

- Concern is expressed in relation to the proposed vehicular entrance as the appellant questions whether the required sightlines can be achieved. They note that traffic travels very quickly along that section of the L1420 where the speed limit is 80km/ph.
- The issue of climate change action is raised. They refer to Development Plans – Guidelines for Planning Authorities, June 2022. Section 6 of the Guidelines refers to Sustainable Development and Regeneration and section 6.2.7 refers to Zoning for rural areas. The appellant notes the following; “In developing land-use zoning and policies for rural areas, it is important to also consider the mandatory development plan objective in respect of climate change action under S.10(2)(n) of the Planning and Development Act, which relates to the promotion of sustainable settlement and transportation strategies in urban and rural areas to reduce energy demand.”
- It is stated that the field is essentially a rock field and that there is a disused quarry to the west circa 155m from the proposed dwelling. The matter of potential damage to the appellant’s property arising from rock works is raised as a concern.
- They expressed concern in relation to potential effects arising from the proposed development on their well and the water supply in the area. It is noted that the site overlies a regionally important aquifer. They cite Section 4.5 of the Sustainable Rural Housing Guidelines which refers to water quality and states, “The key to protecting water quality in the context of providing new dwellings in un-sewered rural areas is to ensure the new development is guided towards sites where acceptable wastewater treatment and disposal facilities can be provided, avoiding sites where it is inherently difficult to provide and maintain such facilities for example sites prone to extremely high water tables and flooding or where groundwater is particularly vulnerable to contamination.”
- It is highlighted, that there are a number of recorded monuments in the vicinity of the site. LI021-045 to 047 – Fanningstown Castle and enclosure is located 300m from the site. Recorded monument LM021-08601 is located 250m from the site and LM021-085 – ringfort is located 250m from the site also.

- The proximity of Adare Woodlands proposed NHA circa 2km to the north-west of the site is noted as is the location of Tory Hill SAC which is circa 3.9km away.
- The appellant has requested that the Board refused permission. However, should permission be granted the appellant has requested that a number of conditions be attached to the permission.
- They request that a condition regarding occupancy be including, a condition to limit the further development within the field be included. They request that the generation of dust, noise and vibration levels be covered in the conditions. They requested that a pre and post survey of their property and well be carried out by a surveyor of their choice. They requested that a condition referring to the hours of operation be included. The appellant referred to the absence of a landscape plan submitted for the scheme. They stated that the matter of the boundary with their property should be addressed.

6.2. Applicant Response

- None received.

6.3. Planning Authority Response

- None received.

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
- Siting and design
- Vehicular access
- Archaeology and heritage
- 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 Castleroberts, Adare, Co. Limerick is located within the countryside. Within the open countryside, the Plan identifies two types of areas for rural housing: 1. Areas under strong 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 Planning Authority in their assessment of the application sought further information. They requested that the applicant provide information to demonstrate a housing need to live in the area. The information sought was a full birth certificate, a copy of school roll or any dated and addressed detailed evidence that the applicant has resided in the area for a minimum of 10 year period.

- 7.1.5. In response to those matters a copy of the birth certificate of the applicant Christine Lane was submitted. It is detailed on the birth certificate that her parents' home address was Dromtrasna, Abbeyfeale, Co. Limerick. It is detailed on the application form submitted with planning application that Christine Lane has lived at her family home at Forth Elizabeth, Manister, Croom, Co. Limerick since 1981. It is confirmed in the application form that she continues to live there. The letter from the principal of Manister National School confirms that Ms. Lane was enrolled as a pupil at the school from 1981 to 1989. It is detailed on the application form that Ms. Lane is employed as a nurse in Limerick City.
- 7.1.6. I noted that the applicant's family home at Manister, Croom, Co. Limerick is located in a rural area and is situated circa 4.3km as the crow flies from the appeal site at Castleroberts, Co. Limerick.
- 7.1.7. Regarding the site, the applicant was requested as part of the further information request to clarify their relationship to the landowner and submit land registry and folio details for the landholding that the site is taken from. In response to this they confirmed that the appeal site is owned by the applicant's brother and sister in law.
- 7.1.8. 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 application form, that she has a child and needs to move out of her family home and establish her own family home. As detailed in the application form the applicant does now own a house and she has lived at her family home at Manister, Croom, Co. Limerick since 1981.
- 7.1.9. On the basis of the information provided on file, the applicant has demonstrated that she 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. Siting and design

- 7.2.1. The appellant has raised concern at the location of the proposed dwelling in relation to the matter of ribbon development. Concern is raised that no landscape plan was submitted for the scheme, and it was requested in the appeal that should permission be granted that the matter of the boundary with their property should be addressed.
- 7.2.2. In relation to the siting and design of the proposed dwelling the applicant was requested by the planning authority to address a number of issues at further information stage. The planning authority required that the applicant clearly outline any right of way that is existing over the landholding that the site is taken from and demonstrate that the proposed site layout does not interfere with an existing right of way. Regarding the proposed dwelling the planning authority required the submission of a revised proposal for a dwelling with a maximum ridge height of 7.5m.
- 7.2.3. The proposed dwelling has a floor area of 253.3sq m, it is two-storey. The ridge height has been revised from 8.5m to 7.5m. The revised design reduced the scale of the roof of the dwelling. It is proposed to locate the dwelling a minimum distance of 34m from the public road to the east. Drawing 2b submitted with the further information indicates the right of way located immediately to the north of the site and that the proposed site layout does not interfere with it.
- 7.2.4. Regarding the matters of landscaping and boundary treatment. I note that a separate landscaping plan was not submitted. As illustrated on the site layout drawing no: PL02 there is indicative planting along the proposed site boundary. However, precise details of boundary treatment and landscaping have not been provided. Should the Board decide to grant permission for the proposed development, I would recommend the attachment of conditions in relation to both boundary treatment and landscaping proposals. I note that the appellant's dwellings would be located over 250m from the proposed dwelling at the closest point. Accordingly, having regard to the separation distance between the proposed dwelling and the appellant's dwelling I do not consider that the proposed dwelling would unduly impact upon their residential amenities.
- 7.2.5. In relation to the matter of ribbon development, I note the point raised by the appellant that ribbon development was included as part of a refusal reason for

previous applications on the site. Those cited planning cases refer to Reg. Ref. 05/3077 & PL13.215981 and Reg. Ref. 05/1212. Those applications were made by different applicants and also were assessed under the provisions of the Development Plans which were in force at the time. The report of the Planning Officer in the current application referred to the issue of ribbon development and noted that the proposed dwelling would be the fourth in a stretch of 250m and that therefore ribbon development was not considered an issue. It was noted in the report that due to the shape of the site that no further infill site would be created as a result of the proposed development. I would concur with the points made by the Planning Officer that the proposed dwelling if permitted would result in the location of a fourth property along that stretch of the local road and given the configuration of the site and proposed siting of the dwelling within the larger field that the proposed development would not create an infill site.

7.2.6. According, having regard to the details discussed above, I am satisfied with the siting and design of the proposed development.

7.3. Vehicular Access

7.3.1. The existing field where the subject site is located is served by an existing agricultural gated entrance off the L1420. It is proposed to develop a new vehicular entrance to serve the dwelling immediately to the south of the agricultural entrance. As indicated on the Site Layout, Drawing no. PL02 it is proposed to retain this existing entrance. The site access is onto the local road the L1420 at a point where there is a continuous white line.

7.3.2. The grounds of appeal refer to the vehicular entrance and question whether adequate sightlines can be provided, and concern is expressed in relation to the realignment of the site frontage which would involve the removal of 100m of roadside boundary.

7.3.3. It is indicated on the Site Layout Plan, Drawing no. PL02 sightlines of 160m can be provided to the north and south and the proposed entrance. As detailed on the Site Layout Plan it is proposed to setback the boundary ditch with a tar finish to be used on the set back area to provide the sightlines. I note that there is one existing tree on the roadside boundary which will be required to be removed. In relation to the

reinstatement of the roadside boundary, I note that condition no. 4 attached by the Planning Authority addressed the matter. It specified that a new roadside boundary shall be constructed along the set back line as identified on the Site Layout Plan comprising of an earthen bank or a sod and stone bank to a consolidated height of 1 metre which shall have a double row of native hedging species.

- 7.3.4. Furthermore, in relation to the proposed vehicular access arrangements, I note that the report of the Roads Section dated 2nd March 2022 stated that there were no objections to the proposal subject to conditions.
- 7.3.5. 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.

7.4. Effluent treatment and water supply

- 7.4.1. It is proposed to install a Secondary treatment system with a sand polishing filter. 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 15.7m to the north of the dwelling. Regarding water supply it is proposed to connect to the public supply. 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 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 26m from the road to the east. Regarding the proximity of watercourses as detailed on the site

characterisation form, I note that the closest stream is Garranroe stream which is located 900m to the north.

- 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 2.3m and the assessment submitted by the applicant indicates that bedrock was encountered at a depth of 2.3m. 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 23.97 was recorded. Surface percolation testing was also carried out and a P value of 17.19 was recorded. Table 6.4 of the EPA Manual advises that where the P value is greater than 3 and less than 75 if installed at the surface, then the site is suitable for secondary treatment system and soil polishing filter. 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 0.80m below the current ground level. 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 secondary 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. **Archaeology and heritage**

- 7.5.1. The appeal raised the matter of the proximity of a number of archaeological sites and recorded monuments. Fanningstown Castle consists of a tower house (LI021-047)

and bawn (approx. ext. dims. 38m N-S x 50m E-W) which was extended in the 18th and 19th centuries and in recent times was converted into a four-star self-catering accommodation. Fanningstown Castle is a Protected Structure, RPS Reg. No. 363. It is described by the National Inventory of Architectural Heritage (NIAH) as a Multi-period castle; (NIAH Reg. No. 21902126) 'Detached former country house, built c. 1810, built within the bawn of a medieval castle. In relation to the location of this site relative to the proposed development I would note that given the separation distance of circa 300m that the appeal site would be located outside the zone of potential.

7.5.2. There is a rath (Ref. LI01772) situated circa 218m to the south of the appeal site. In relation to this archaeological feature having regard to the separation distance to the appeal site I am satisfied that the proposed development would not impact on the integrity of the rath/ringfort or the archaeological character of the area.

7.5.3. There is an enclosure which forms part of a fish-pond (Ref. LI01774) located circa 260m to the south of the appeal site. In relation to this archaeological feature having regard to the separation distance to the appeal site I am satisfied that the proposed development would not impact on the integrity of this enclosure.

7.5.4. Having regard to the details set out above I do not consider that it is necessary or appropriate to attach any conditions in respect of an archaeological appraisal of the site should the Board decide to grant permission for the proposed development.

7.6. **Appropriate Assessment**

7.6.1. 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

- 9.1.1. 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 20th of June 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. Prior to the commencement of development, the details of the proposed boundary treatment shall be submitted to the Planning Authority for their written agreement.

Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

- 4. 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 and sightlines. 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.

5.

- (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 27th day of January 2022, 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.

6. 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.

Reason: To ensure adequate servicing of the development and to prevent pollution.

7.

(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.

8. 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.

9. 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.

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.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Siobhan Carroll
Planning Inspector

22nd May 2023