



An
Bord
Pleanála

Inspector's Report ABP314651-22

Development	Erection of dwelling, domestic garage, waste water treatment system, bored well, entrance wing walls and front boundary wall.
Location	Ballycahane Upper, Crecora, County Limerick.
Planning Authority	Limerick City and County. Council.
Planning Authority Reg. Ref.	22739
Applicant(s)	Siobhan Hayes.
Type of Application	Planning permission.
Planning Authority Decision	Refuse permission.
Type of Appeal	First Party
Appellant	Siobhan Hayes
Observer	Michael McGrath.
Date of Site Inspection	3 rd August 2023.
Inspector	Ann Bogan

1.0 Site Location and Description

- 1.1. The site, which is 0.58ha in area, is located on the L805 local road in the townland of Ballycahane Upper, circa 2.3km south of the village of Crecora and approximately 9km from Limerick city. The area is rural and agricultural in character with a significant amount of one-off housing development in the wider area. The site forms part of a large rectangular shaped field which is circa 1-1.5m above the level of the local road from which the site is accessed.
- 1.2. There are three existing adjacent houses along this stretch of field frontage, two to the west and one to the east. The immediately adjacent house to the west is recently constructed and the entrance is not yet completed. The subject site is positioned in part of the remaining frontage, leaving an undeveloped area with road frontage to the east. The Observer's house and farm buildings are on the opposite side of the road, and there are additional houses on the north side of the road to the west.

2.0 Proposed Development

- 2.1. The proposed development involves the erection of a dwelling, domestic garage, waste water treatment system, bored well, entrance wing walls, front boundary wall and associated site works. The proposed dwelling is a two-storey gable fronted structure with two side annexes. It has a smooth plaster finish with central stone feature to the front elevation and slate roof. A detached single storey garage is to be located to the side of the dwelling.
- 2.2. The wastewater treatment system is proposed to the rear (south) of the dwelling and the proposed well to the north. The application was accompanied by a Waste Water Treatment System Site Suitability Assessment, documents to show evidence of housing need and letter from land owner permitting applicant to apply for planning permission.

3.0 Planning Authority Decision

3.1. Decision

Limerick County Council issued decision to refuse permission dated 24th August 2022 for the following reasons;

1. The road network serving the site is considered sub-standard in width, alignment, surface condition and has insufficient capacity to accommodate the additional traffic likely to result from the development. The proposed development would therefore materially contravene Policy TR P11 (Road Safety and Carrying Capacity of the Road Network) as set out in the Limerick Development Plan 2022-2028 and would be contrary to the proper planning and sustainable development of the area.
2. It is considered that the proposed development would endanger public safety by reason of traffic hazard because the traffic movements generated by the proposed development, where sightlines are restricted, would interfere with the safety and free flow of traffic on the public road.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer in report dated 18th August 2022, considered that the applicant appeared to comply with Development Plan housing need requirements for the area, which is identified as a 'Rural Area under Strong Urban Influence', but noted that the location of the site would result in an infill site to the east and that the red line boundary would need to be amended to avoid this. The design of the house was considered acceptable, and it was not considered to cause overlooking of other properties. Refusal of permission was recommended as the access road was considered to be substandard and would contravene Policy TR P11 of the Development Plan.

- 3.2.2. The report considered that due to the nature of the development it would not require an Appropriate Assessment or an EIA screening determination. The Planning Officer's recommendation formed the basis for the Planning Authority's decision.

3.2.3. Other Technical Reports

Roads section: Not satisfied that the required 90m sightlines could be achieved and recommended requesting further information, also recommended conditions relating to disposal of surface water.

Environment Department: recommended conditions to ensure the installation of the treatment system was supervised and certified as being fit for purpose.

3.3. Third Party Submission

One submission was received which in summary, raised concerns re:

- overlooking of his home and farmyard from the proposed house,
- retention permission for a large house on an adjacent site
- detrimental effect of the developments on his mental health
- the applicant already received permission for another site nearby [Note: the application referred to was refused permission on appeal]

4.0 Planning History

The landholding has had a number of previous planning permissions, some of which include the whole subject site, while others include part of it.

15/238 – Lorna Ryan: Conditional permission by Limerick Co Council for construction of a dwelling, garage, entrance and waste water treatment system.

Third part appeal to An Bord Pleanala, refusal of permission on the grounds that applicant did not demonstrate local need in accordance with the development plan.

08/2503 - Janet Ryan: Outline permission granted for construction of dwelling, garage, entrance, wastewater treatment system.

08/2125 – Miriam Ryan: Outline permission granted for construction of dwelling, garage, entrance, wastewater treatment system.

08/1720 – Lorna Ryan: Conditional permission granted for construction of dwelling, garage, entrance, wastewater treatment system.

Adjacent sites

19/11 – Lorna Ryan: Conditional permission granted for construction of dwelling, garage, entrance, wastewater treatment system.

15/804 – John and Mary Ryan: Retention permission granted for dwelling house, garage and associated works including site boundaries, road side entrance and septic tank system as constructed in place of developments granted permission under ref. no 00/2684.

Previous application by the applicant – 460m to east of current site

20/620 – Siobhan Keyes: Permission refused by Limerick City and Co Council for erection of dwelling, entrance, piers and front boundary wall, waste water system, domestic garage, bored well. Decision appealed to An Bord Pleanala Ref 308247-20 and refused due to non-compliance with housing need criteria of Sustainable Rural Housing Guidelines for Planning Authorities 2005, and National Policy Objective 19 of the National Planning Framework; lack of public services and community facilities in the area; and location within the route corridor of the N/M20 Cork to Limerick Scheme.

5.0 Policy and Context

5.1. Development Plan

Limerick Development Plan 2022-2028

Rural Housing Policy

Volume 1 Section 4.4 of the Plan addresses rural housing. The site is located in a 'Rural Area under Strong Urban Influence and the following objective applies:

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.

Section 4.4 also states that rural housing will be subject to considerations of siting, design, safe access, and suitable waste water disposal systems and that ‘The Planning Authority shall have regard to the viability of smaller towns and rural settlements in the implementation of the rural housing policy.’

Road safety and capacity

‘Policy TR P11 Road Safety and Carrying Capacity of the non-national Road

Network *It is a policy of the Council to safeguard the carrying capacity and safety of the non-national road network throughout Limerick. In implementing the above policy, the Council will have regard to the following objectives:*

Objective TR O37 Land Uses and Access Standards *It is an objective of the Council to:*

a) Ensure that any development involving new access to a non-national public road, or the intensification of use of an existing access onto a non-national public road meets the appropriate design and safety standards.

b) Ensure that on roads that are substandard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development for one off rural housing will only be considered in exceptional circumstances. This includes applicants who have a demonstrable social need to live on the particular road, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the Development Plan.’

Landscape Character

Table 6.1 Rural Landscape Character Areas

LCA 01 Agricultural Lowlands: The site is located in this Landscape Character Area, which is relatively flat with some prominent hills and ridges and comprises most of the central plain of the County. It is a farming landscape defined by a series of regular field boundaries, with hedgerows often allowed to grow to maturity.

Specific Objectives

‘a) Encourage, where housing is permitted, design that reflects existing housing stock, such as the two storey farmhouses which are a feature in the area.

b) Encourage retention of existing landscape features such as hedgerows and trees and their incorporation into landscaping for new developments.

c) Discourage development of locally prominent sites.’

5.2. National Policy

Sustainable Rural Housing Guidelines for Planning Authorities, 2005

The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated. The Guidelines state that areas under strong urban influence exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.

National Planning Framework – National Policy Objective 19

‘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, 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.’

5.3. Natural Heritage Designations

Tara Hill SAC 1km, Site Code 000439

5.4. EIA Screening

- 5.4.1. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the

requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

The key issues raised by the appellant are:

- The Planning Authority issued a Notification of Decision to Grant Permission dated 24th August 2022, (with reasons for refusal attached) and subsequently issued a Notification of Decision to Refuse Permission. dated 24th August and received by the appellant on 30th or 31st of August, with a cover letter indicating that was an error in the first notification and that they were therefore issuing an amended notification. Raises a number of questions in relation to the Planning Authority's actions, queries whether there is a legal deficiency in the Decision to Refuse, wants to appeal this decision and contends the Decision to Grant Permission should stand.
- Has made a number of attempts to obtain planning permission for a home in the area she was born and brought up in. When the route corridor for the N/M20 was decided and the site was excluded from it she lodged her application on this site. Has satisfied all the issues raise in pre-planning discussion
- In relation to the point raised by the observer to the Planning Application, appellant says the observers house and farm buildings would be 130m from the proposed house and that farm activities such as slurry spreading are more pressing environmental issues that the proposed family home.
- The only concern the Planning Authority had is the existing county road and despite the houses and agricultural traffic on the road there is no record of serious or minor traffic and accidents and one extra house won't alter this
- Sightlines will be created as shown on the details submitted, and the Planning Authority have obviously accepted this as correct.

- There are no issues re house design, percolation etc and she adhered to all requests raised at pre-planning stage

6.2. Observation

Issues raised by an agent on behalf of the Observer:

- Traffic Safety: lack of detail in relation to how the applicants will provide safe access to the site, the applicant does not have consent to carryout works outside her ownership and we believe adequate sightlines cannot be achieved
- The L8005 is substandard in width and alignment and the junction with the L1407 has particularly poor visibility. There are often long delays due to the narrowness of the road and the number of cattle lorries and feed trucks and cars using it and not being able to pass each other. a further intensification on this narrow road will create new and additional traffic hazards and will be detrimental; to the running of his farm enterprise
- On the basis of the definitions in the Sustainable Rural Housing Guidelines the proposed development would lead to ribbon development and is likely to give rise to demands for urban type services which would be uneconomic to provide in this rural location
- The dwelling is located on an elevated and prominent position without the benefit of natural screening which will result in lack of privacy and amenity to the rear of the Observers dwelling and would also devalue their property and be detrimental to the character of the area. Existing houses already built have the benefit of natural screening and are located in a way that they are not looking into his yard.

6.3. Planning Authority Response

None

7.0 Assessment

7.1. Having examined the application details, the appeal submission, the issues raised by the observer, and having inspected the site and having regard to relevant national and local policies and guidance, I consider the main issues in this appeal are as follows:

- Compliance with rural housing policy
- Traffic Safety and Access
- Wastewater treatment
- Residential amenity
- Appropriate Assessment

7.2. Note that I consider the questions raised by the applicant in relation to the validity of the Notification to Refuse permission issued by the local authority to be a matter outside the remit of An Bord Pleanála, whose role is to adjudicate on the substantive planning issues raised in the appeal.

7.3. Compliance with Rural Housing Policy

7.3.1. The site is within an area designated a 'Rural Area under Strong Urban Influence' in the Development Plan, where applicants for development of houses must demonstrate an economic or social need to live in the area. The criteria included in the Plan includes those 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). I note the applicant outlines that she is from the Crecora area and currently lives with her parents in the townland of Cahervalley to the north of the subject site. I understand based on details submitted that she is self-employed and runs a gymnastics club in Limerick city.

7.3.2. The Sustainable Rural Housing Guidelines 2005 define rural areas under strong urban influence as those within proximity to the immediate environs or close commuting catchment of large cities and towns, such as this site which is close to Limerick City. Circumstances for which a genuine housing need might apply include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas. In addition, Policy Objective 19 of the National

Planning Framework requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area. Whilst the applicant in this case has a local connection, I consider that a demonstrable need to live at this particular location in line with this core provision not been demonstrated. It is, therefore, considered that the applicant does not comply with Policy Objective 19 of the National Planning Framework. I consider therefore that the proposal would undermine rural housing policy and would be contrary to the proper planning and sustainable development of the area.

- 7.3.3. There are currently three houses developed on this stretch of road frontage. This house would create a fourth and would leave an undeveloped gap to the west which has potential to become an infill site for a fifth house site along a 280m stretch of road frontage, thereby facilitating ribbon development, contrary to the Sustainable Rural Housing Guidelines, which recommend against the creation of ribbon development for reasons relating to road safety, future demands for the provision of public infrastructure and services and visual impacts.

7.4. Wastewater Treatment

- 7.4.1. The development will be served by a private well and a packaged wastewater treatment system and polishing filter. The Site Characterisation Report (which I note is partially based on a previous site assessment from 2008, rather than the updated 2021 EPA guidance), concludes that the soil structure and colour is consistent with well-drained soil, however bedrock occurs at 1.3m so there is insufficient soil for attenuation of wastewater for a conventional septic tank system. A waste water treatment system with polishing filter may be used as proposed, subject to topsoil and upper sub-soil being replaced as it has a slow percolation rate. The report considers the proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines. On the basis of the information available on file, it would appear that the subject site (on the basis that there has been no change of circumstance since the original assessment) is suitable for the installation of the packaged wastewater treatment system and polishing filter as proposed, subject to conditions.

7.5. Traffic safety and access issues

- 7.5.1. Development Plan policy TRP11 seeks to safeguard the carrying capacity and safety of non-national roads and Objective TR037 seeks to ensure new accesses to such roads meet the appropriate design safety standards, such as adequate alignment and width. Access to the subject site is from a narrow but largely straight stretch of road. I do not consider it to be significantly deficient in alignment and while the width (circa 3m) may cause some inconvenience or delay especially for large farm or public service vehicles, the additional traffic generated by the proposed development is unlikely to significantly disimprove the current situation or endanger public safety by creating a traffic hazard.
- 7.5.2. Insufficient details are provided to establish whether adequate sight distances can be achieved. There is no detail on proposed boundary treatment or landscaping, however it appears that removal of existing hedgerows and ditches (some of which are likely to be outside the subject site), would be necessary to create the necessary graded site entrance and to achieve required sightlines. This would be out of keeping with the rural character of the area and landscape character area Policy LCA 01 which encourages retention of hedges and trees and with the recommendations of the development control guidance in Section 11 of the Development Plan which seeks the retention of hedgerows and recommends an alternative site be sought if sightlines cannot be achieved without significant hedge removal. In my view the proposed development would therefore detract from the rural landscape character of the area.

7.6. Residential amenity

- 7.6.1. The proposed two storey dwelling will have a ridge height of circa 8 metres and while higher than the recently constructed dwelling to the west, will be a similar height above ground level to the existing two-storey dwelling to the east. The house would be set back 52m from the edge of the road and would be over 100m from the Observer's dwelling on the northern side of the road, which would be at least partially screened from view by existing vegetation on the roadside. The design is considered acceptable and I am satisfied that the proposed development would not cause overlooking or cause serious injury to the residential amenity of nearby residences.

Appropriate Assessment Screening

- 7.7. Having regard to the nature and scale of the proposed development, the nature of the foreseeable emissions therefrom, the nature of receiving environment and the absence of a pathway between the application site and any European site it is possible to screen out the requirement for the submission of an NIS and carrying out of an EIA at an initial stage.

8.0 Recommendation

- 8.1. I recommend that permission be refused for the reasons outlined below.

9.0 Reasons and Considerations

1. The subject site is located within an 'area under strong urban influence' which is an area under significant pressure for rural housing, as identified in the Limerick Development Plan 2022-2028, the Sustainable Rural Housing Guidelines and in the National Planning Framework. National Policy Objective 19 aims 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 documentation submitted with the application and appeal, the Board is not satisfied that the applicant has a demonstrable economic or social need to live in this rural area. It is considered, therefore, that the applicant does not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location and would be contrary to the proper planning and sustainable development of the area
2. The proposed development in the absence of a locally based need for the house, would contribute to the encroachment of random housing development in a rural area and would militate against the preservation of the rural environment and the efficient provision of public services and

infrastructure. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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

Ann Bogan
Planning Inspector

8th August 2023