



An
Bord
Pleanála

Inspector's Report ABP314772-22

Development	Construction of dwelling house, detached garage, new entrance, installation of on-site treatment plant and percolation area and associated site works.
Location	Rooska East, Carrigkerry, Co Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22/805
Applicant(s)	David Dillane
Type of Application	Planning Permission.
Planning Authority Decision	Refusal of permission.
Type of Appeal	First Party
Appellant(s)	David Dillane
Observer(s)	None.
Date of Site Inspection	2 nd August 2023.
Inspector	Ann Bogan.

1.0 Site Location and Description

- 1.1. The site which is 0.21ha in area, is located on the L7079, approximately 5km west of Newcastlewest, Co Limerick, in the townland of Rooska East. The site is located in a rural area and is part of a field in agricultural use with a public road, L7079, running along the northern boundary. The field is bounded by hedgerows to the north and trees and hedgerows to the south, adjoining an area of woodland. There is an existing adjacent house to the east.

2.0 Proposed Development

- 2.1. The development consists of construction of a dwelling house, detached garage, new entrance, installation of on-site treatment plant and percolation area and associated site works with access off the L7079. The house is a dormer dwelling of approximately 217sq m with a ridge height of 8.3m, and a separate garage of 28.8sqm. The house is set back approximately 15m from the road edge. The natural vegetation along the southern boundary will be retained and hedgerow along the road boundary is proposed to be retained apart from at the entrance, while the east and west site boundaries will consist of wire fence and hedges of native species.
- 2.2. The application is accompanied by a design statement, a road survey, a site suitability assessment and a flood risk assessment.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission issued on 13th September 2022, for the following reasons:

'The road network serving the site of the proposed development is considered substandard in width, alignment, surface condition and has insufficient capacity to accommodate the additional traffic likely to result from the development. The proposed development would materially therefore contravene Policy TR P22(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.

The proposed development is located within an 'Area of Strong Urban Influence' whereby under Objective HO O20 of the recently adopted Limerick Development Plan 2022-2028 rural dwellings are considered subject to specified criteria. Having regard to the information submitted on file to date, the applicant has not demonstrated that they meet the criteria for a house in this rural area. Furthermore, the applicant has recently been granted permission for a dwelling immediately adjacent to the subject site and as a result does not have a rural housing need for development of this site also. Therefore, the proposal would materially contravene this objective in relation to rural settlement, militate against the preservation of the rural environment and be contrary to the proper planning and sustainable development of the area'.

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The Planning Officer considered the design and layout, access sightlines and waste water treatment proposals to be acceptable. However, refusal of permission was recommended as the applicant had not demonstrated a social/economic need to live in the area, and the road was substandard. Following a preliminary EIA examination, it was concluded a screening determination was not required in this case. It was also considered that an Appropriate Assessment was not required. The planner's report formed the basis for the Planning Authority's decision

3.2.3. Other Technical Reports

Roads Section: Sightlines considered acceptable subject to conditions, surface water disposal conditions recommended

No objection from a flood risk perspective. Updated CFRAM flood risk maps show the area is not in a flood risk area.

4.0 Planning History

None on the subject site

Immediately adjacent site

21/1065 David Dillane granted conditional permission for dwelling, garage and treatment lant and percolation area which included a condition requiring the dwelling to be occupied by the applicant for at least 7 years. Applicant has appealed the decision to An Bord Pleanala because of this condition and a decision is awaited (313526-22).

5.0 Policy and Context

5.1. National Policy

Sustainable Rural Housing Guidelines 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

5.2. Development Plan

Limerick Development Plan 2022-2028 (which came into effect shortly after this application was lodged with the Planning Authority)

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: (Note the site was previously identified as a 'Structurally Weak Area' under the County Development Plan 2010-2016 as extended).

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.’

An objective requiring occupancy of permitted houses for at least 7 years by the applicant is also included in the plan (Objective HO O23).

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 nonnational 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.*

5.3. Natural Heritage Designations

West Limerick Hills SPA adjacent to subject site: Site Code 004161

5.4. EIA Screening

- 5.5. 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

- Application was submitted on the basis that appellant's site was in the 'Structurally Weak Area' as defined in Limerick County Development Plan 2010-2016 as extended and the site was selected and house designed in line with requirements of that Plan. The Limerick Development Plan 2022-2028 came into effect on 29th July 2022, after this planning application was lodged (lodged 22nd July 2022) and the new plan should not be considered in this application.
- Supplementary form lodged with application clearly stated in part 2 that the house is for sale and other parts of the form were therefore not completed. The planning submission should not have been validated as the Planning Supplementary Form (relating to housing need justification) was not completed as it was in a 'Structurally Weak Area' in the Development Plan, which was unchanged on the website at that time. The public should have been advised of the effective date of the new Plan.
- The Planner did not take cognisance of the Structurally Weak Zone as part of the decision. Development should be granted in accordance with the Limerick County Development Plan 2010-2016 which the development complies with.
- The roads are adequate in width and pavement design servicing the appellant's site. See road survey and photos submitted with application. Site is located within 80kph zone. Vertical and horizontal alignments are adequate.
- Plannings were granted along this road without any mention of road condition or width and without any queries in relation to applicants link to the road by further information. Three examples of such developments are referenced.
- The treatment plant is adequate as per site assessment report, house design is carefully planned for the site and similar to adjoining houses
- Proposed development is for second additional house only.
- The present housing needs should be taken into consideration.

6.2. **Planning Authority Response**

- None

6.3. **Observations**

- None

7.0 **Assessment**

7.1. Having examined the application details, the appeal submission, 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
- Appropriate Assessment

7.2. **Compliance with Rural Housing Policy**

7.2.1. The development must be assessed under the Development Plan in operation at the time, namely the Limerick Development Plan 2022-2028. The site is within 5km of Newcastlewest and is defined as a 'Rural Area under Strong Urban Influence' in the Development Plan. Objective HO.O20 requires that applicants for the development of houses in such areas must demonstrate an economic or social need to live in the area, such as being employed in a rural based occupation or living in the area for at least 10 years.

7.2.2. The Sustainable Rural Housing Guidelines indicate that those applying to build one-off houses in such areas must have a genuine need to live in the area. Furthermore, 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, having regard to the viability of smaller towns and rural settlements.

7.2.3. No information has been supplied with the application or appeal documentation to justify the need to construct a house on this site on the basis of the applicant's social or economic need to live in this area, therefore the proposed development would material contravene Objective HO.O20 of the Limerick Development Plan, and Policy Objective 19 of the National Planning Framework and is out of keeping with the Sustainable Rural Housing Guidelines. 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.

7.2.4. **Wastewater Treatment**

7.2.5. The Site Characterisation Report concludes that the site is suitable for a packaged wastewater treatment system with percolation area. The report considers the proposed arrangements to be acceptable subject to compliance with the EPA guidelines. On the basis of the information available on file, and the site inspection it would appear that the subject site is suitable for the installation of the packaged wastewater treatment system and polishing filter as proposed, subject to conditions.

7.3. **Traffic safety and access**

7.3.1. 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, including adequate alignment and width. Access to the subject site is from a narrow (circa 3m+) but largely straight stretch of road. I do not consider it to be significantly deficient in alignment or condition and while the width may result in some inconvenience or delay, 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.

7.3.2. The drawings indicate adequate sightlines can be achieved for the access to the site. If the development were to be permitted, conditions requiring retention of the existing hedgerow, apart from at the entrance, would be recommended to protect the rural landscape character.

7.4. **Appropriate Assessment Screening**

7.4.1. 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 refusal of permission for the reasons 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 the proposed development 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