



An
Bord
Pleanála

Inspector's Report

ABP-315349-22

Development	The construction of a new dwelling house, garage, entrance, driveway, packaged waste water treatment system with percolation area and all ancillary site works.
Location	Ballygrennan, Ballingarry, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22821
Applicant(s)	Fiona Power & Adrian Farragher
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Deirdre Begley
Observer(s)	An Taisce
Date of Site Inspection	8 th September 2023
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site is located in the townland of Ballygrennan approx. 3.5km from the village of Ballingarry. Access to the site is from the L1209 local road. The area is rural in nature and is characterised by farmland with a number of one-off houses. The site is located on a slope of Knockfierna Hill. The house to the north is owned and occupied by the third-party appellant.
- 1.2. The site area is given as 0.2ha. The site has frontage to the local road to the north with an existing sod and stone ditch boundary. The site falls away steeply from the road with a level difference of 6m from the road edge (+161m) to the rear of the site (+151m). The site forms part of a larger agricultural landholding, with 2 no. existing agricultural entrances on either side of the site. The site is open and exposed in nature.

2.0 Proposed Development

It is proposed to erect a two-storey dwelling with a stated floor area of 233sqm. A detached garage with a floor area of 36sqm is also proposed to the rear of the site. Permission for an entrance to the site and a waste water treatment system and percolation area are also sought. In response to a request for further information from the Planning Authority, the proposed house has been pushed back 38.5m from the road edge (previously 20m).

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant planning permission subject to 13 no. conditions. These were generally of a standard type. Condition 2 requires payment of a development contribution of €4,660.00 under the General Development Contribution Scheme. Condition 3 relates to an occupancy condition requiring the dwelling house to be first occupied by the applicant as a permanent place of residence for a period of 7 years. Condition 4 requires a new roadside boundary to

be constructed and set back 2.5m from the public road edge. The new roadside boundary shall comprise a sod and stone bank with a double row of native hedging on top or a double row of native hedging species. A block wall at the entrance is prohibited. Condition 5 requires broken stone or compacted gravel to be provided between the edge of the road and the recessed boundary. Condition 6 requires surface water run-off from the public road to be accommodated within the site. Condition 7 requires surface water run-off from within the site shall be collected and disposed of within the site to soakpits/adjacent watercourses. Condition 8 requires the installation of the wastewater treatment system and polishing filter in accordance with the EPA COP, a certificate of installation, compliance with the EPA Code of Practice and the undertaking of a maintenance contract for the WWTP and the polishing filter. Condition 12 requires the FFL to be 34.95m as shown on submitted revised plans (29/03/21). Conditions 13 and 14 related to materials and external finishes of the house and garage and restricted the use of the garage to domestic purposes.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner's initial report (15/09/2022) stated that the location of the site is in an 'Rural Area under Strong Urban Influence' in the Limerick Development Plan 2022-2028. Objective HO O20 applies in this regard. It was considered that the applicant complied with said objective. It was noted that the design and scale of the proposed development would be a concern due to the site's sensitive location on the slope of Knockfierna. Further Information was requested in this regard. In response to a request, the proposed house has been pushed back 38.5m from the road edge (previously 20m). This was considered acceptable by the Planning Authority in a further report (24/11/2022). A grant of permission was recommended.

3.2.2. Other Technical Reports

Roads – Satisfied that 90m sightlines are achievable. The applicant will be conditioned to setback the entire front boundary of their site a minimum of 2.5m from the public road edge. No objection subject to conditions.

Environment – No objection subject to conditions.

3.3. **Prescribed Bodies**

An Taisce (31/08/2022) – It is considered by An Taisce that the site selection of the proposed house has not been justified in the application particulars. The site is on a slope of Knockfierna Hill which is a significant landscape feature and an area of archaeological and folklore significance. The views to and from the approaches of the hill are also of significant landscape sensitivity.

3.4. **Third Party Observations**

Deirdre Begley – Owner/occupier of house to the north. A variety of issues were raised which generally reflect the grounds of appeal. Concerns primarily relate to the visual impact of the proposed development given the importance of Knockfierna as a landscape feature. Further concerns were raised regarding groundwater quality arising from waste water proposals, increased traffic flow and inadequate access to the site, and lack of a landscape plan.

4.0 **Planning History**

Adjacent Site – P.A. Ref 22/820 /ABP Ref 315350-22 - A concurrent application and appeal for the construction of a new dwelling house, garage, entrance, driveway, packaged waste water treatment system with percolation area and all ancillary site works

5.0 **Policy Context**

5.1. **Limerick Development Plan 2022-2028**

5.1.1. Objective HO O20 of the Plan refers to Rural Areas under Strong Urban Influence;

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.

5.1.2. In terms of Landscape Character Areas, the Development Plan describes Knockfierna as one of the most dominant hills in the centre of Limerick. The hill is noted as being important not just for its scenic value, but also because of the variety of archaeological and historical sites that exist on it. However, I note that the subject site is located within Landscape Character Area 01 Agricultural Lowlands. There are a number of specific objectives associated with this Landscape Character Area including item c), which seeks to *'Discourage development of locally prominent sites.'*

5.1.3. With regards to protection of the roads hierarchy the following policies and objectives are relevant;

Traffic 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.

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 sub-standard, 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.

5.2. National Planning Framework

National Policy Objective 15 Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 19 makes a distinction between areas under urban influence and elsewhere. It seeks to ensure that the provision of single housing in rural areas under urban influence on the basis of demonstrable economic and social housing need to live at the location, 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. Sustainable Rural Housing Guidelines for Planning Authorities

These guidelines differentiate between Urban Generated Housing and Rural Generated Housing and directs urban generated housing to towns and cities and lands zoned for such development. Urban generated housing has been identified as development which is haphazard and piecemeal and gives rise to much greater public infrastructure costs. Rural generated housing includes sons and daughters of families living in rural areas and having grown up in the area and perhaps seeking to build their first home near the family place of residence.

5.4. Natural Heritage Designations

Heathfield Wood pNHA (001434) – c.7km to the southwest of the site

Adare Woodlands pNHA (000429) - c.8km to the north of the site

Lower River Shannon SAC (002165) c.11km – to the north of the site

5.5. EIA Screening

The proposed development is for the construction of a single dwelling house, a garage and a private wastewater treatment system on a greenfield site in a rural area. Having regard to the nature, size and location of the proposed development,

and to the nature of the receiving environment, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The appeal is a third-party appeal against the decision to grant planning permission. It was submitted by Deirdre Begley, who has a stated address of The Commons, Knockfierna, Ballingarry. The main points raised may be summarised as follows:

1. **Landscape and Visual Amenity** – The proposed development does not comply with the Specific Objectives in relation to Landscape Area 04 (LCA04). Specific Objective a) requires that housing developments shall be confined below 150m sea level in order to protect the scenic amenity of the area, except in exceptional circumstances. Specific Objective c) states that the breaking of ridgelines or selection of locally prominent sites, within the Knockfierna Landscape Character area is strongly discouraged. It is contended that the council has failed to uphold its own policy to protect knockfierna in relation to these 2 no. specific objectives. The appellant also refers to the An Taisce submission which states that the site selection and location has not been justified in the application particulars.
2. **Traffic Hazard** -There is a lack of detail in relation to how the applicants will provide safe access and egress to and from the proposed development site. The applicant has not adequately demonstrated that sight lines can be achieved. This is a very active section of road and the proposed development would lead to further intensification along this road and would create additional traffic hazards.

6.2. Applicant Response

The following points from the applicant's response are of note;

Site Layout - As a result of the Further Information request, the proposed house has been pushed back 38.5m from the road edge (previously 20m).

Traffic Safety – The applicants note that they already travel this road daily for commuting to work and use of local facilities. Any increase to traffic would be short term and related to the construction. The entrance gates will be recessed, allowing the appellant sufficient space to enter/exit their property and providing ample space for traffic to pull in.

Rural Settlement Policy – The applicant has reiterated their need for to live in the local area.

6.3. **Planning Authority Response**

None

6.4. **Observations on the Grounds of Appeal**

An Taisce – reiterated their concerns that the site selection and location of the proposed house has not been justified in the application particulars.

7.0 **Assessment**

7.1. Although the appellant did not raise the issue of rural settlement policy, it is noted that the appellant's appeal response submission does address the matter.

Appropriate Assessment should also be addressed. It is considered that the main issues arising from the appeal are as follows;-

- Landscape and Visual Amenity
- Traffic hazard and adequacy of access
- Rural Settlement Policy
- Appropriate Assessment

7.2. Landscape and Visual Amenity

- 7.2.1. The appellant contends that the subject site is located in Landscape Character Area (LCA) 04 Knockfierna and does not comply with specific objectives for this LCA. I note from my review of Limerick Development Plan 2022-2028 mapping, that the site is located in Landscape Character Area 01 Agricultural lowlands. The local road L1209 acts as the divide between the landscape character areas. The lands to the north of the L1209 road are in LCA 04, while the lands to the south of this road including the subject site are located in LCA01. The Agricultural Lowlands are described as a farming landscape, defined by a series of regular field boundaries, often allowed to grow to maturity. The landscape is described as generally rather flat with some locally prominent hills and ridges. Specific Objective c) of this Landscape Character Area seeks to discourage development of locally prominent sites. I would consider that the proposed development is located on a locally prominent site on the slope of Knockfierna hill.
- 7.2.2. The Planning Authorities request for Further Information set out serious concerns regards to the visual impact of the development and the potential for an undesirable precedent for further similar development. I note that as a result of the FI request that the house which was initially proposed at 20m from the edge of the road to the front of the house, was relocated further into the site, 38.5m from the roads edge. The applicant in their response to grounds of appeal note that this has resulted in the lowering of the level of the house by 3m, given the steep fall of ground from the road (+161m) to the rear of the site (+151m). Notwithstanding these proposed changes, I consider that the proposed development intrudes into an agricultural field which forms part of a large expanse of unspoilt agricultural lands that are widely visible from the open countryside surrounding the site and would have a detrimental impact on the attractive rural landscape.
- 7.2.3. Although not located in the Knockfierna Landscape Character Area, I would agree with the appellant that the proposed dwelling would be sited on a ridge which would have the effect of bringing a cluster of residential development into view where the character of the landscape is still relatively unspoilt. It would therefore also result in an unduly obtrusive feature in the rural landscape due to the siting and scale of the proposed dwelling on a ridge which is currently largely free from such development,

by extending the existing suburban pattern of development into the open countryside. I note, FI item 2(d) required the applicant to submit a visual assessment of the proposed development including photographs of the site with the dwelling superimposed. I consider the submitted photographic survey with indicative house locations to be inadequate to give a true indication of the visual impact of the proposed dwelling, garages and hardstand area.

- 7.2.4. In relation to the LCA 01, Specific Objective b) seeks to '*Encourage retention of existing landscape features such as hedgerows and trees and their incorporation into landscaping for new developments*'. Due to the substandard nature of the road from a safety point of view, the proposed development will necessitate the removal of a significant portion of hedgerow frontage (c.80m) at the front of the site. It is considered that the loss of this mature vegetation would have a detrimental impact on the visual amenity and rural character of the area, notwithstanding the proposal to set the boundary back and replant native hedgerows. This aspect of the proposed development would have a detrimental impact on the attractive rural landscape and would militate against the preservation of the rural environment.
- 7.2.5. In conclusion, having regard to the siting and scale of the proposed development on an elevated ridge on the slope of Knockfierna, together with the clustering of development in the vicinity, I consider that the proposed development would erode the open character of the countryside at this location and would militate against the preservation of the rural environment. It would also result in serious injury to the visual amenities of the area.

7.3. Traffic Hazard and adequacy of Access

- 7.3.1. The appellant contends that the proposed development would create a traffic hazard due to the substandard nature of the public road and lack of adequate sightlines. I would agree that the local road serving the site is sub-standard in terms of width and alignment. I note from my site visit that there are several existing residential and agricultural entrances and trackways up Knockfierna hill along this stretch of local road. There are also a number of busy working farms along this stretch of road which generates traffic associated with this use. The entrance to the proposed development is located on a short stretch of road between two agricultural accesses

on the south side of the road. The applicant themselves note that these access ways are often used as a place for traffic to pull in daily. The road is reasonably busy given that it is within commuting distance of Limerick City.

- 7.3.2. The Area Engineer has noted that 90m sightlines can be achieved but that this would require the setting back and realignment of the boundary. As previously noted in Section 7.2 above, this will result in the loss of a substantial sod and stone boundary and mature hedgerow along the roadside. The applicants contend that they travel this road daily for commuting to work or use of local facilities. While the inadequacy of the road network is noted, it is my view that the proposed development would not result in a traffic hazard, having regard to the minor nature of the road and the limited number of vehicular trips potentially generated by the proposed development. For the above reasons, I do not consider that a refusal of permission on traffic grounds would be merited.

7.4. Rural Settlement Policy

- 7.4.1. 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 Ballymacashel, Mungret, Co. Limerick 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 within the Area of Strong Urban Influence.
- 7.4.2. 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 as set out in Section 5.1 above.
- 7.4.3. The applicants are Fiona Power and Adrian Farragher. The site is owned by Fiona's father and a letter of consent to make the application is noted on file. As detailed in the application form the applicant resides at her family home and has lived there her entire life. The applicant has submitted her birth cert and letters from her primary

school confirming she attended school locally. The applicant currently lives at home on the family landholding at the Glen, Ballingarry, which is within 10km of the site.

7.4.4. In relation to Objective HO O20, criterion 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 that she has never owned a home, and she wishes to build her first home on a site that is c.700m from her family home, where she has lived all her life.

7.4.5. 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 that the applicant falls 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.

7.5. **Appropriate Assessment**

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 planning permission be refused for the reasons and considerations set out below.

9.0 **Reasons and Considerations**

1. The site of the proposed development is located within Landscape Character Area 01 Agricultural lowlands as set out in the current Development Plan for the area, with a specific objective to discourage development of locally prominent

sites. Having regard to the topography and open nature of the site on the slope of Knockfierna Hill, the elevated positioning of the proposed development, the extensive driveway and the removal of the front boundary wall and hedging, it is considered that the proposed development would form a discordant and obtrusive feature on the landscape at this location, would seriously injure the visual amenities of the area, would fail to be adequately absorbed and integrated into the landscape, would militate against the preservation of the rural environment and would set an undesirable precedent for other such prominently located development in the vicinity. 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.

Ciara McGuinness
Planning Inspector

25th October 2023