



An
Bord
Pleanála

Inspector's Report

ABP-315666-23

Development	Dwelling house, detached garage, vehicular entrance, installation of on-site treatment plant and percolation area together with all associated site works
Location	Morenane, Askeaton, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22209
Applicant(s)	Richard and Mary O'Shaughnessy
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Richard and Mary O'Shaughnessy
Observer(s)	None
Date of Site Inspection	19 th June 2023
Inspector	Eoin Kelliher

1.0 Site Location and Description

- 1.1. The subject site is situated in the townland of Mornane, circa 5km northeast of Askeaton village and circa 19km west of Limerick City, Co. Limerick. The site is located on the side of a rural county road (L6006) accessed from the N69 national road that connects Limerick City and Tralee.
- 1.2. The site comprises a rectangular portion of an agricultural field (pasture) with a stated area of 0.29ha having circa 40m of road frontage. The topography of the field is relatively flat. The roadside boundary of the site is defined by a stone wall and hedgerow; the remaining boundaries are undefined. The surrounding landscape is characterised by pastoral fields interspersed with farmsteads and one-off rural / roadside houses.

2.0 Proposed Development

- 2.1. This is one of two concurrent planning applications for dwelling houses on adjoining sites; the other application (P.A. reg. ref. 22/210 and ABP ref. 315667-23) is also the subject of a first-party appeal.
- 2.2. The proposed dwelling comprises a single storey four-bedroom detached house of traditional design set back circa 22m from the public road and accessed via a newly created splayed vehicular entrance. A detached garage is proposed to the side (south) of the house. The external walls of the house would have a combination of smooth plaster render and stone finishes; the roof would be finished in black slates/tiles. The front boundary of the site is to be retained with the existing hedge trimmed and reduced to 1m or less in height; side and rear boundaries are to be defined by post and wire fences and a hedgerow.
- 2.3. The site would be serviced by way of an on-site domestic wastewater treatment system. Surface water would discharge to soakpits and water supply is to be provided by way of a private well.
- 2.4. By way of further information submitted to the Planning Authority on 14th December 2022 the applicant proposed to remove the existing roadside boundary and provide a new stone boundary wall set back from the road to achieve the required sightlines. Revised surface water drainage details were also proposed.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 10th January 2023 Limerick City and County Council decided to refuse permission as the site for the proposed development is located within an area under strong urban influence as defined in the Limerick Development Plan 2022-2028 and it was considered that the applicant does not come within the scope of the housing need criteria set out in Objective HO O20 of the Plan in respect of such areas.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Initial Report

The Planning Officer's initial report assessed the application against the objectives of the Limerick County Development Plan 2010-2016 (the lifetime of which had been extended) under which the site was in a 'structurally weak area' where demand for residential development should be accommodated subject to meeting normal planning and environmental criteria. No issues were raised regarding the principle of development, house design and site layout and site suitability / waste water treatment.

Further information was sought as per the recommendation from the Council's Roads Section:

1. Revised proposals so that adequate sightlines would be achieved from the proposed vehicular entrance,
2. Proposals to ensure that ponding of surface water does not occur along the roadside boundary, and
3. A letter of consent from the relevant utility to set back roadside utility poles so that they do not interfere with sightlines or road safety.

The need for EIA and AA was screened out.

Subsequent Report

The Planning Officer was satisfied that all matters raised in the further information request had been adequately addressed.

The Planning Officer noted, however, that under the subsequently adopted Limerick Development Plan 2022-2028 the site is in an 'area of strong urban influence' where applicants must demonstrate compliance with the rural housing need criteria set out in Objective HO O20 of the Plan. The Planning Officer stated that as per a land registry search, the applicant appears to already own a property immediately north of the subject site and, therefore, does not come within the scope of the housing need criteria. In this regard the Planning Officer recommended refusing permission.

The Planning Officer's recommendation was endorsed by a Senior Executive Planner and is reflected in the decision of the Planning Authority.

3.2.2. Other Technical Reports

Roads Section: Initial report sought, *inter alia*, the following:

- Revised proposals to achieve 90m sightlines from the proposed vehicular entrance, including setting back the front boundary of the site,
- All stationary objects such as overhead service poles be set behind the sightlines, and
- Measures to prevent surface water from the site entering the public road and surface water from the public road ponding in front of the site.

Subsequent report indicates the Roads Section was satisfied that the required 90m sightlines can be achieved and sets out access and drainage related requirements to be complied with.

Environmental Services: No objection raised to proposed on-site wastewater treatment system subject to compliance conditions regarding its installation.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

None.

4.0 Planning History

Subject Site: None.

Adjoining Site: - P.A. reg. ref. 22/210 and ABP ref. 315667-23; Planning application for a dwelling house for Helen O'Donnell refused by the Planning Authority on 10th January 2023. The Planning Authority's decision is the subject of a concurrent first party appeal.

To the SE: P.A. reg. ref. 22/804; Application for a dwelling house for Richard O'Shaughnessy (the appellant) in the same field as the subject site withdrawn 22nd March 2023 following a request for further information from the Planning Authority.

To the SW: P.A. reg. ref. 22/811; Permission refused for a dwelling house for Mary O'Shaughnessy in the SW corner of the same field as the subject site on 15th September 2022 owing to (1); the substandard nature of the road network serving the site, and (2); the location of the site in an area under strong urban influence and the applicant not having demonstrated that she meets the rural housing criteria that applies to this area.

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

The subject site is in an 'area of strong urban influence' as indicated on the rural housing strategy map (map 4.1) of the current Limerick Development Plan.

Objective HO O20 of the Plan sets out the housing need criteria for 'areas of strong urban influence' as follows:

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 of the Plan also states, *inter alia*, that in all cases the consideration of individual sites for rural housing will be subject to normal siting and design considerations, which will include, but not necessarily be limited to the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard,
- That any proposed on-site wastewater disposal system is designed, located and maintained in a way which protects water quality,
- That the siting and design of new dwellings takes account of and integrates appropriately with its physical surroundings and other aspects of the natural and cultural heritage and,
- That the proposed site otherwise accords with the objectives of the Development Plan in general.

5.2. Natural Heritage Designations

None of relevance.

5.3. EIA Screening

Having regard to the residential nature and small scale of the development and the absence of any significant environmental sensitivity in the vicinity of the site, 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

This is a first party appeal against the decision of Limerick City and County Council to refuse permission. The grounds of appeal can be summarised as follows:

- The application was lodged when the Limerick County Development 2010-2016 (as extended) was in force and the subject site was in a 'structurally weaker area'. The application should have been assessed against same.
- The further information request regarding sightlines and drainage was unwarranted.
- The new Limerick Development Plan 2022-2028 came into effect after the planning application was submitted. No zoning details were given on the supplementary application form as it was not necessary when the application was lodged. The requirements of the new development plan should not be applied to the planning application as it was lodged before it came into force.
- The proposed site is located on the applicants' lands and the purpose of the proposed dwelling is to enable the applicants to downsize for medical reasons.

6.2. Planning Authority Response

None received.

7.0 Assessment

7.1. The main issues to be addressed in this appeal relate to the applicants' rural housing need and appropriate assessment.

7.2. Rural Housing Need

7.2.1. The crux of this appeal relates to whether the Planning Authority should have determined the applicants' rural housing need in accordance with the development plan in force when the application was made or the development plan in force when its decision was made. In this regard, I draw the Board's attention to section 34(2)(a)(i) of the Planning and Development Act, 2000 (as amended), which states the following:

*"When making its **decision** in relation to an application under this section, the planning authority shall be restricted to considering the proper planning and sustainable development of the area, regard being had to –*

(i) *the provisions of the development plan.*” (my emphasis)

- 7.2.2. The Limerick Development Plan 2022-2028 was adopted by the elected members of Limerick City and County Council on the 17th of June 2022 and came into effect on the 29th of July 2022. The decision on this planning application was made on the 10th of January 2023. As such, I am satisfied that the Planning Authority acted correctly in making its decision based on the objectives of the Limerick Development Plan 2022-2028 and not the Limerick County Development Plan 2010-2016 (as extended) which had been superseded at the time of its decision.
- 7.2.3. I note that the subject site is in an area identified as being in an ‘area of strong urban influence’ in the 2022-2028 Plan and that the applicants reside at an existing dwelling, ‘Foxgrove House’, located circa 130m north of the subject site. The Planning Officer’s report states the applicants own the said dwelling; the applicants have not challenged this statement. As such, I understand the applicants already own a house in the local rural area and do not comply with any of the rural housing need criteria set out in Objective HO O20 of the Plan.
- 7.2.4. Having regard to the foregoing, the proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the provision of public services and infrastructure. I recommend, therefore, that the Planning Authority’s decision to refuse permission be upheld.
- 7.2.5. Regarding the applicants’ assertion that the Planning Authority’s request for further information was unwarranted, the Board should note that this is a procedural matter in which it has no regulatory function. However, I do not consider the request for further information unreasonable as it was required to ensure the proposed development would not endanger public safety by reason of a traffic hazard.

7.3. **Appropriate Assessment**

Having regard to the nature and small scale of the proposed development, which comprises a dwelling served by an on-site domestic wastewater treatment system and surface water soakaways, the distance to the nearest European sites, and in the absence of any hydrological or other connections to European sites, it is concluded that the proposed development would not be likely to have a significant effect

individually or in combination with other plans or projects on a European site. Appropriate Assessment is not, therefore, required.

8.0 Recommendation

I recommend that permission be **refused** for the reasons and considerations set out below.

9.0 Reasons and Considerations

Having regard to the location of the site within a 'Rural Area under Strong Urban Influence' as identified in the Limerick Development Plan 2022-2028, where housing is restricted to persons demonstrating local need based on their social and / or economic links to a particular local rural area and who have never owned a house in the rural area, and the applicants' particular circumstances as set out in the documentation submitted with the appeal, it is considered that the applicants do not come within the scope of the housing need criteria as set out in Objective HO O20 of the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the 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.

Eoin Kelliher
Planning Inspector

29th August 2023