



An
Bord
Pleanála

Inspector's Report

ABP-316169-23

Development	A dwelling house, waste water treatment system, percolation area, site entrance and all associated site works.
Location	Carheeney, Kildimo, County Limerick.
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	22/1146
Applicant(s)	Aileen Shanahan
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Aileen Shanahan
Observer(s)	None
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 Carheeney approximately 2km north of Kildimo village and 10km west of Limerick City. To the east of the site the River Maigue flows north to meet the River Shannon. The site is accessed by a local road (the L8039) serving the townlands, which branches off the N59 and extends northwards. A considerable amount of ribbon development lies along the length of this local road and there is a considerable amount of one-off housing in the overall area.
- 1.2. The site is rectangular in shape and extends over an area of 0.20 hectares. The site slopes upwards at a moderate gradient away from the road. The site currently comprises agricultural lands. There is an existing agricultural access to the site from the road. The site is bound to the west and the north by agricultural lands. The lands to the east contain an existing residential dwelling. The site is screened from the road by means of mature trees and hedgerows.

2.0 Proposed Development

- 2.1. The proposal is for outline permission for a dwelling house, wastewater treatment system, percolation area, site entrance and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

The planning authority refused permission on the 15th March 2023 subject to 2 no. reasons;

1. **Ribbon Development** - The proposed development would constitute undesirable ribbon development in a rural area and would be likely to give rise to demands for the provision of urban type services which would be both uneconomic and inappropriate to provide and would, therefore, be contrary to the proper planning and sustainable development of the area.
2. **Inadequate Wastewater treatment** - In the absence of sufficient information submitted the Planning Authority cannot be satisfied that the proposed development would not be prejudicial to public health because the site may be

unsuitable for the effective treatment and disposal of domestic effluent, due to the lack of adequate percolation properties of the soil. The development would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planning Officer notes that the exact location of the applicant's home house has not been identified but given the address provided it would appear to be approximately 10km+ from the subject site. In terms of ribbon development, the proposed dwelling would constitute a seventh dwelling house within 250m from the edge of the site.

3.2.2. Other Technical Reports

Environment (09/12/22) – requested to clarify the location of the 3.1m trial hole. The location of the trial hole is in close proximity to a trial hole for application P.A. Ref 22/184 on the site, which was withdrawn, where bedrock was encountered at 2.6m.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

None

5.0 Policy Context

5.1. Limerick Development Plan 2022-2028

5.1.1. 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. Within the Limerick Development Plan 2022-2028, under Table DM 5: Design Guidelines for Rural Houses, a note is included which states that *‘Suburban-type and/or ribbon development is not acceptable in rural areas as set out in the Sustainable Rural Guidelines and any subsequent update’*.

5.1.3. **Objective IN O11 Private Waste Water Treatment**

A number of criteria are listed under this objective including the following;

b) Ensure single house wastewater treatment systems in those areas not served by a public foul sewerage system comply with the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021 as may be amended or updated.

5.2. **National Planning Framework**

5.2.1. **National Policy Objective 15** supports 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.

5.2.2. **National Policy Objective 19** makes a distinction between rural areas under urban influence and rural areas elsewhere. It seeks to facilitate 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**

5.3.1. 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. Appendix 4 of the Sustainable Rural Housing Guidelines recommends against the creation of ribbon development for a variety of reasons relating to road safety, future demands for the provision of public infrastructure as well as visual impacts.

5.4. Natural Heritage Designations

Lower River Shannon SAC – c.0.8km to the subject site

River Shannon and River Fergus SPA – c.0.8km to the subject site

Inner Shannon Estuary - South Shore pNHA – c.0.8km to the subject site

Dromore & Bleach Loughs pNHA – 0.6km to the subject site

5.5. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development, and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- The appellant has prepared a letter outlining their housing need. Reference is made to the reliance on family at present for accommodation and their desire to stay in the area where they have always lived. The site is the only land available to the appellant to build.
- A response letter by Maurice Meskell Engineering states that the proposed development does not constitute Ribbon Development as it will only be the 5th House in 250m. The appellant meets the requirements of rural housing need. The proposed site is within 10km from the applicant's home house. The appellant has shown a demonstratable economic need to live in the area. The appellant 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).

- It is noted that the Environmental Section raised concerns for the number of septic tanks in the area, and that the proposed system was amended to a Tertiary treatment system at ground level to maximise the depth of subsoil. A depth of 3m to rock was provided as demonstrated by photographic evidence. It is stated that this was shared to the Executive Engineer of the Environmental Section of Limerick City and County Council, who responded and advised that the proposed new treatment system for the site was satisfactory. A site suitability assessment form for the installation of a secondary treatment unit and tertiary treatment system is included with the ground of appeal.

6.2. **Planning Authority Response**

None

6.3. **Observations**

None

7.0 **Assessment**

I consider the main issues in determining this appeal are as follows:

- Ribbon development
- Wastewater
- Rural Settlement Policy
- Appropriate Assessment.

7.1. **Ribbon Development**

- 7.1.1. Appendix 4 of the Sustainable Rural Housing Guidelines deals with ribbon development. Ribbon development is considered to occur when 5 or more houses exist on any one side of a given 250m of road frontage.
- 7.1.2. The site fronts onto a local road, located c.3km from the N69. The road runs along a northwest -southeast axis. The subject site is sited on the northwest side of the road. During my site visit, I observed that there are examples of ribbon development in-situ along the local road, which serves the site. There are 4 no. existing dwelling houses

located to the southeast of the subject site within 150m of the edge of the subject site. Accordingly, the proposed development on the subject site, would entail the addition of a fifth dwelling house and so it would represent ribbon development. Furthermore, a sixth existing dwelling is located to the southeast of the subject site within 250m of the edge of the subject site. The Planning Authority in their report note the existing 5 dwellings to the east, along with an extant permission for a 6th dwelling under Reg Ref 21/1542. I note the Planners Report for this development considered this extant permission to be infill development. The proposed dwelling the subject of this application would therefore constitute a 7th dwelling within 250m from the edge of the subject site. I concur with the Planning Authority's reason of refusal as the proposed development would give rise to further undue ribbon development and give rise to demands for the provision of urban type services.

- 7.1.3. The applicant considers the decision of the Planning Authority to be unjust and draws attention to recent grants of permission in the area which they consider to constitute ribbon development. Each application is assessed on its own merits. I can see no justification for extending the ribbon of development into the unspoilt agricultural lands at this location. There is an excessive number of houses served by private wastewater treatment plants and increasing the high density of development would erode the rural character of the area. The proposal would also lead to increasing demands for facilities and services which would result in unsustainable patterns of development. I consider that the proposal should therefore be refused.

7.2. **Wastewater**

- 7.2.1. Section 8.5.4 of the Limerick County Development Plan requires that where rural houses are to be served by DWWTS that they demonstrate compliance with the EPA Code of Practice for Domestic Waste Water Treatment Systems (2021). The Site Characterisation Report submitted with the application identifies that the appeal site is located in an area with a Regionally Important Aquifer where the bedrock vulnerability is Extreme. A ground protection response of R2² is noted. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice and subject to the additional conditions¹. The trial hole depth referenced in the Site

¹ 1 That there is a minimum thickness of 2 metres of unsaturated soil/subsoil beneath the invert of the percolation trench of a septic tank system,
or

Characterisation Report was 3.1 metres. Bedrock was encountered at 3.1m. The soil conditions found in the trial hole are described as comprising silt/clay with cobbles and boulders. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 64.02 was recorded. Based on the EPA CoP 2021 (Table 6.4) the site is suitable for a secondary treatment system and a soil polishing filter.

7.2.2. The EPA CoP 2021 requires a trial hole depth of at least 2.1m or to bedrock or 3m for GWPRs of R2² or higher. While a trial hole was excavated to 3.1m with bedrock not encountered, the Planning Authority in their assessment have noted that the location of the trial hole is the same as per the previously withdrawn application on the site P.A .Ref 22/184 where bedrock was encountered at 2.6 metres. The applicant has not commented on the location of the trial holes in their appeal. I also note that details are missing from Section 4.0 (Conclusion of Site Characterisation) of the Site Characterisation form. It is also not clear how the percolation area size has been calculated. I would agree that the information provided in the submissions is inadequate to make a determination on this issue.

7.2.3. In addition to the details on file, there are approximately 20 houses in close proximity to the application site which I assume, in the absence of a public sewer, also discharge to groundwater. The application provides no element of assessment of the cumulative impact on groundwater. I consider, therefore, that the planning authority's second reason for refusal should also be upheld.

7.3. **Rural Settlement Policy**

7.3.1. 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 Carheeney, Kildimo, 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.

that a secondary treatment system is installed, with a minimum thickness of 0.3 metres of unsaturated soil/subsoil with percolation values from 3 to 75 (in addition to the polishing filter, which should be a minimum depth of 0.9 metres), beneath the invert of the polishing filter (i.e. 1.2 metres in total for a soil polishing filter).

- 7.3.2. 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 set out in Section 5.1 above.
- 7.3.3. The applicant is Aileen Shanahan. The site is owned by the applicant's mother and 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 school confirming she attended school locally. Folio and mapping details of the original family landholding have not been submitted. The applicant has provided a letter from an insurance provider as proof of address of the family home. The Eircode provided on the letter would indicate that the original family landholding is within 10km from the site.
- 7.3.4. In relation to Objective HO O20, criteria 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 in this area that is within 10km of where she was born and has lived all her life.
- 7.3.5. On the basis of the information provided on file, the applicant has demonstrated that they have a housing need for the specific area and I conclude, therefore, 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.

7.4. Appropriate Assessment

- 7.4.1. The site lies 0.8 km to the west of the River Mague and 3.5 km to the south of the River Shannon. Both these Rivers are the subject of the Lower River Shannon SAC (002165) and the River Shannon and River Fergus SPA (004077). The site is on elevated ground, it slopes to the southwest rather than to the east. Consequently,

this site drains to the southwest. I am satisfied that there are no source/pathway /receptor routes between the site and the European sites within the wider area and so the development of this site to provide a dwelling house would not be likely to have any significant effect on the Conservation Objectives of these or any other European sites.

- 7.4.2. Having regard to the nature, scale and location of the proposal, the nature of the receiving environment, and the proximity to the nearest European site, it is concluded that no Appropriate Assessment issues arise as the proposal would not 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 the proposed outline planning permission be **refused** for the following reasons and considerations.

9.0 Reasons and Considerations

1. It is the policy of the planning authority as set out in the current development Plan to control urban sprawl and ribbon development. This policy is considered to be reasonable. The proposed development would be in conflict with this policy because, when taken in conjunction with existing and permitted development in the vicinity of the site, it would consolidate and contribute to the build-up of ribbon development in an open rural area. This would militate against the preservation of the rural environment and lead to demands for the provision of further public services and community facilities. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. In the absence of sufficient information and the failure to demonstrate compliance with the EPA Code of Practice 2021 Domestic Waste water Treatment Systems for PE 10, the Board is not satisfied, on the basis of the submissions made in connection with the application and appeal, that the site can be drained satisfactorily by means of a septic tanks, notwithstanding the

proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.

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

14th November 2023

