



An
Bord
Pleanála

Inspector's Report

ABP-317650-23

Development	New two-storey dwelling (209 sq.m.) together with a new entrance, sewage treatment system and ancillary site works
Location	Clondrinagh, Ennis Road, Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	23245
Applicant(s)	Kevin MacNamara and Emma Casey.
Type of Application	Permission.
Planning Authority Decision	Refusal of Permission.
Type of Appeal	First
Appellant(s)	Kevin MacNamara and Emma Casey.
Observer(s)	None.
Date of Site Inspection	18 September 2023.
Inspector	Claire McVeigh

1.0 Site Location and Description

- 1.1. The 0.64 hectare site is located in the townland of Clondrinagh, located just off the Ennis Road (R445) Coonagh roundabout, in the north western outskirts of Limerick City approximately 200m south of the Coonagh Cross Shopping Centre. The subject site forms part of an agricultural landholding and fronts onto the local Coonagh Road between the Coonagh Roundabout and the townlands of Coonagh East and West close to Coonagh Aerodrome (Limerick Flying Club). The ground level of the agricultural field rises from road level up to the farmstead buildings. There is a footpath along the opposite side of the road providing a pedestrian route from a section of extensive ribbon development along this side of the road to the local services.

There is a mature sod and stone bank with hedgerow along the roadside (southeastern) edge and its south western boundary has mature hedgerow and trees. A wooden fence bounds the northeastern boundary with the existing farmyard lane and a post and wire fence bounds the northwestern boundary with the farm. The existing farmstead is located to the north of the subject site comprising a number of agricultural buildings and slatted sheds positioned in and around the central yard. The original farmhouse building, an attractive traditional two storey house of simple proportions with symmetrical façade, is located northeast of the farmyard complex with a mature front garden and a separate vehicular access, from the existing farm access, onto the Coonagh Road.

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a new vehicular entrance and two storey house with the installation of a sewage treatment system and ancillary site works. The proposed house would be a detached, two storey, three-bedroom house with a stated floor area of 209 sq. m. The proposed ridge height is shown as 8.297m. The ground floor has a proposed floor to ceiling height of 3m and the upper floor with a reduced 2.550 floor to ceiling. The proposed new entrance requires the removal of the existing sod and stone bank to be removed and construction of stone entrance piers with new 1.0m high earth berm constructed either side with hawthorn hedging planted on top and native trees planted behind.

3.0 Planning Authority Decision

3.1. Decision

On the 29 June 2023, the planning authority decided to refuse permission for the proposed development for one reason relating to flood risk:

Reason: The proposed development is an area at risk of flooding and as such would be contrary to Policy CAF P5 Managing Flood Risk as set out in the Limerick Development Plan 2022-2028 and the Planning System and Flood Risk Management – Guidelines for Local Authorities [sic], November 2009. 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

- Refers to the site's planning history, noting that a previous application was withdrawn on the subject site and referring to another site on the landholding where permission was refused on grounds of flood risk.
- The proposed house design is noted as being similar to existing dwellings within the immediate vicinity. The significant difference in proposed Finished Floor Level (FFL) of 5.67m to that of adjoining property to southwest at 2.7m.
- Acknowledging the zoning of the land for agriculture, and the area is designated as a rural area under strong urban influence it was considered that the applicant demonstrated compliance with criteria set out under Objective HO O20.
- Refers to the Strategic Flood Risk Assessment (SRFA) carried out as part of the Limerick Development Plan 2022-2028 which shows the area as liable to flooding and note that significant lands in the area have been recommended to be dezoned.
- Notes the site characterisation report and having regard to the location of the site in an area at risk of flooding is not satisfied that wastewater can be disposed of satisfactorily from the site.

3.2.2. Other Technical Reports

- The Physical Directorate was not satisfied with the Site Specific Flood Risk Assessment (SSFRA) selection of breach locations and the breach map scenario referenced in the SSFRA (as they are at 1% AEP coastal and not the more conservative 0.5% AEP scenario). They state that the topographical information on the site layout drawing displays that the majority of the proposed dwelling is located in Flood Zone B and not Flood Zone C as stated in the SSFRA. As such, proposed highly vulnerable development on lands not zoned accordingly (i.e. agriculture) does not pass part 1 of the justification test. It is noted that the surrounding lands are low-lying (including the proposed access from Coonagh Road) and may be rapidly inundated during the 0.5 AEP flood event to significant depths (up to 2.2m or greater) in the event of a breach. Significant concerns are noted with regard to flood risk to this proposed development particularly with regard to emergency access and egress during a flood event.
- Environment Strategy Department note that the majority of the site is within Flood Zone A and while the house and treatment system may be outside of this flood zone the access to the dwelling would be seriously hampered in the case of a flood event. In the event of a flood wastewater will not be able to move off site adequately as the ground around the polishing filter would become saturated and may be damaged. Recommend refusal due to the site being in the flood zone.
- The Road Section is not satisfied with the proposed sightlines shown are available in either direction without setback of the existing mature vegetation boundary and the neighbouring site (west) which the applicant has no control over. It is stated that the applicant is not proposing to remove/setback any of the existing boundary and has shown sightlines through the neighbouring site to the west. Further information sought.
- Concerns raised in respect to the submission of percolation tests which are not sufficient to demonstrate infiltration for the proposed soakways. Infiltration test results sought as further information.

3.3. Prescribed Bodies

- Uisce Éireann – No objection, standard conditions recommended.

- Mid West National Road Design Office – no observations to make.
- Transport Infrastructure Ireland (TII) - no observation to make.

3.4. **Third Party Observations**

None. I note, however, that the applicants submitted a letter notifying the planning authority nominating Cllr. Stephen Keary as their public representative for the application.

4.0 **Planning History**

4.1. Current Site:

22/146: Application by the applicants for a two storey dwelling withdrawn.

4.2. Relevant adjacent sites:

87/29334 – Tom McNamara (applicant's father) granted permission for the erection of a bungalow, entrance, and septic tank. This bungalow is immediately adjacent the subject site (southwest) and is shown (Official Property Registration Map submitted with the application documentation) to still be in the ownership of the applicant's father.

18/1051 - Roisin McNamara (applicant's sister) refused permission for a dwelling on grounds of flood risk, public health concerns that the wastewater cannot be satisfactorily disposed due to a high water table and the free draining nature of the sub soils and taking into consideration that the lands are zoned agricultural that the applicant does not come within scope of the housing need criteria as set out in the development plan.

5.0 **Policy Context**

5.1. **Development Plan**

Under the Limerick Development Plan 2022-2028 the site is zoned 'Agriculture' (Map 3: Limerick City and Suburbs (in Limerick), including Mungret and Annacotty- Zoning Map).

Objective: To protect and improve rural amenity and provide for the development of agricultural uses.

Purpose: Protect rural amenity and agricultural lands from urban sprawl and ribbon development and provide a clear demarcation to the adjoining built up areas. Uses which are directly associated with agriculture or rural related business activities which have a demonstrated need for a rural based location and which would not interfere with rural amenity are open for consideration. Compliance is required with the criteria for Small Scale Home-Based Businesses.

One off dwellings will only be considered on agriculturally zoned land outside of Flood Zones A and B, subject to the terms and conditions of the rural housing policy as set out in this Plan.

Dwellings are categorized as 'highly vulnerable development' in the Section 28 Planning System and Flood Risk Management Guidelines for Planning Authorities (2010) and will not be permitted in flood zones.

Policy CAF P5 Managing Flood Risk It is a policy of the Council to protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the appropriate lands, in accordance with The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 (or any subsequent document) and the guidance contained in Development Management Standards and the Strategic Flood Risk Assessment (SFRA).

Where a development/land use is proposed that is inappropriate within the Flood Zone, but that has passed the Plan Making Justification Test, then the development proposal will need to be accompanied by a Development Management Justification Test and Site-Specific Flood Risk Assessment in accordance with the criteria set out under The Planning System and Flood Risk Management Guidelines for Planning Authorities 2009 and Circular PL2/2014 (and any subsequent updates). This will need to demonstrate inclusion of measures to mitigate flood and climate change risk, including those recommended under Part 3 (Specific Flood Risk Assessment) of the Site-specific Plan Making Justification Tests detailed in the SFRA.

In Flood Zone C, the developer should satisfy themselves that the probability of flooding is appropriate to the development being proposed and should consider other sources of flooding, residual risks and the implications of climate change.

Objective CAF O20 Flood Risk Assessments It is an objective of the Council to require a Site-Specific Flood Risk Assessment (FRA) for all planning applications in Flood Zones A and B and consider all sources of flooding (for example coastal/tidal, fluvial, pluvial or groundwater), where deemed necessary. The detail of these Site-Specific FRAs (or commensurate assessments of flood risk for minor developments) will depend on the level of risk and scale of development. The FRA will be prepared taking into account the requirements laid out in the SFRA, and in particular in the Plan Making Justification Tests as appropriate to the particular development site. A detailed Site-Specific FRA should quantify the risks, the effects of selected mitigation and the management of any residual risks. The assessments shall consider and provide information on the implications of climate change with regard to flood risk in relevant locations.

Objective CAF O25 Strategic Flood Risk Assessment It is an objective of the Council to have regard to the recommendations set out in the Strategic Flood Risk Assessment prepared to support the Plan.

Objective HO O20 Rural Areas under Strong Urban Influence (Excerpts)

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.

Table DM 5: Design Guidelines for Rural Houses, which includes reference to Limerick’s Rural Design Advice for Individual Houses in the Countryside updated in 2012. It is noted 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.

5.2. **Flood Risk Management Guidelines for Planning Authorities (2009)**

The guidelines ensure that the key principles of flood risk management and sustainable planning are adopted.

The Planning Principles set out in Section 3.1 of the Planning System and Flood Risk Management Guidelines (“the Guidelines”) include:

- Development should preferentially be located in areas with little or no flood hazard thereby avoiding or minimising the risk.
- Development should only be permitted in areas at risk of flooding when there are no alternative, reasonable sites available in areas at lower risk that also meet the objectives of proper planning and sustainable development.
- A precautionary approach should be applied, where necessary, to reflect uncertainties in flooding datasets and risk assessment techniques and the ability to predict the future climate and performance of existing flood defences.

The sequential approach to managing flood risk within the planning system is one of the first aspects to consider and where uncertainty exists, the precautionary approach is taken.

5.3. Sustainable Rural Housing Guidelines for Planning Authorities (2005) These guidelines outline a key objective for the local planning system to deliver sustainable rural settlements. The guidelines differentiate between Urban Generated Housing and Rural Generated Housing. This distinction acknowledges the fact that demands for housing in rural areas arise in different circumstances and also to differentiate between the development needed on rural areas to sustain rural communities and development tending to take place in the environs of villages, towns and cities which would be more appropriately located in these places. Rural generated housing includes sons and daughters of families living in rural areas and having grown up in the area.

5.4. Natural Heritage Designations

The development site is not located in or immediately adjacent to a European site. The closest European site are the Lower River Shannon Special Area of Conservation (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (Site Code: 004077), within 1 Km of the proposed development.

The site is approximately within 2km of the Fergus Estuary and Inner Shannon North Shore pNHA (002048) and within 3km of the Inner Shannon Estuary – South Shore pNHA (000435).

5.5. Environmental Impact Assessment (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 grounds of appeal can be summarised as follows:

- Request the Board agree with the planning authority's conclusion, as set out in the planning authority's planner report, that the applicants comply with criteria in respect to one-off dwellings in the Rural Area Under Strong Urban Influence set out under Objective HO O20 of the Development Plan.
- The SSFRA, April 2023, prepared by Punch Consulting Engineers confirms that the site of the proposed development is located within Flood Zone C. The determination of Flood Zone C by Punch Consulting Engineers was based on the OPW Undefended Scenario Mapping which was provided by Limerick City and County Council (LCCC) and overlaid on the topographical survey available for the site as per Figure 3.17 of the Punch Consulting Engineers SSFRA.
- A supplementary submission, 21 July 2023, prepared by Punch Consulting Engineers in response to the concerns raised by the Flooding Department is included in the supporting documentation to the appeal and it concludes that the proposed dwelling and ancillary works are located in Flood Zone C.
- A review report, 24 July 2023, prepared by a Mr. Tony Cawley, Hydro Environmental Ltd of both the SSFRA and the decision of LCCC has been submitted with the appeal. It concludes that the footprint of the house is located in flood zone C and the low residential risk to the site protected by OPW maintained tidal flood embankments makes the proposed residential development sustainable in the Mid-range future scenario in respect to Flood Risk.

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:

- Zoning Provisions for the site - compliance with rural housing policy
- Flood Risk (taking into consideration impacts on wastewater treatment)
- Appropriate Assessment

7.1. Zoning Provisions

- 7.1.1. The site for the proposed development is on land that is zoned 'Agriculture' in the current Limerick Development Plan 2022-2028 and falls within Rural Housing Category 1 – Area under Strong Urban Influence. The zoning objective is: "To protect and improve rural amenity and provide for the development of agricultural uses". The stated purpose of the zoning objective is to protect rural amenity and agricultural lands from urban sprawl and ribbon development and provide a clear demarcation to the adjoining built up areas.

The development plan expressly states that one off dwellings will only be considered on agriculturally zoned land outside of Floods Zone A and B, subject to terms and conditions of the rural housing policy as set out in the development plan. It is further restated that "dwellings are categorized as 'highly vulnerable development' in the Section 28 Planning System and Flood Risk Management Guidelines for Planning Authorities (2010)[Sic] and will not be permitted in flood zones". Given the zoning provisions, as outlined above, for the lands I consider that both the issue of flood risk, central to the reason for refusal and principal ground of appeal, in conjunction with the issue of compliance with the terms and conditions of the rural housing policy must be considered in the assessment of this application.

- 7.1.2. The documentation submitted with the application does not categorically confirm which housing 'need' criteria (as set out in Objective HO O20) the applicant seeks to

demonstrate compliance with. Within Objective HO O20 'local rural area' is defined as the 'area outside all settlements identified in Levels 1-4 of the Settlement Hierarchy'. The subject site is located within the defined Limerick City and Suburbs boundary and, as such, is within Level 1 of the Settlement Hierarchy. Therefore, given the restrictions set out in Objective HO O20 the applicant is precluded from applying under criteria (2) and criteria (3a). I am of the opinion, based on the information submitted with the planning application that Criteria 3 (b) is not applicable. I am of the view that the applicant must be able to demonstrate compliance with Criteria 1 'demonstratable economic need' within Objective HO O20.

- 7.1.3. Documentary evidence required to support applications for housing in the Category 1 Area of Strong Urban Influence, is set out in note no. 3 and no. 4 of the supplementary form, includes:

"3. a) Location plan or Eircode showing the applicants place of residence in the local area.

b) Full birth certificate (identifying place of birth)

c) Letter (s) from local school (s) confirming attendance of the applicant or copy of the school roll.

d) Dated official correspondence with applicant's name and address e.g., Utility Bills.

4. The applicant must demonstrate that they have been actively engaged in a rural activity, at the proposed location for a continuous period of not less than 5 years, prior to making the application".

- 7.1.4. From the details completed in the supplementary form of the planning application it is stated that the applicant Kevin MacNamara has lived at the farm in Clondrinagh from birth and continues to live with his parents. It is stated on the form that he is working as a farm animal vet and farms the lands (63 hectares as illustrated on the Property Registration Authority Map) with his father. A letter confirming Kevin MacNamara's

employment at Midwest Vets has not been submitted. The second applicant Emma Casey is a teacher working in a local school (2km from the subject lands), a letter from her employer has been submitted.

- 7.1.5. Not all the recommended documentation, as outlined in the supplementary form, has been submitted in support of the application, it is noted that there are no birth certificate (s), an invoice to Kevin MacNamara from a Diesel Card Company rather than a utility bill has been submitted and a location plan showing the applicant's place of residence has not been submitted. I acknowledge the submission (unsigned letter) by the applicant's father in relation to his son's work on the farm, however, it is difficult to determine the full extent of active engagement with the farm the applicant currently has. It is clear from the evidence provided that Kevin MacNamara was brought up in the area having attended post-primary school in Caherdavin (approximately 2km from the subject site) and that he has connections with the local community.
- 7.1.6. The applicant, in first party appeal submission submitted by Town & Country Resources Limited, requests that the Board conclude also, as per the planning authority's assessment, that the applicants comply with Objective HO O20 and to grant planning permission for the proposed development subject to a satisfactory review of the flood risk status of the subject site. On the basis of the information provided, I consider that the applicant has not sufficiently demonstrated a 'economic' need as required under Criteria 1 of Objective HO O20.
- 7.1.7. The issue of compliance with the 'Agriculture' zoning objective also raises the question of whether the proposed one-off dwelling on agriculturally zoned land is outside of Floods Zone A and B. I shall address this question in the following section (7.2).

7.2. Flood Risk

- 7.2.1. The existing hydrological environment, as described in section 3.1 of the submitted Site Specific Flood Risk Assessment (SSFRA), is characterised primarily by the presence of the Clondrinagh Stream, located 125m to the west of the site and the Crompaun River which is approximately 700m to the north-west of the site. These both link with the River Shannon. The subject site is located on agriculturally zoned lands benefitting from the Shannon Arterial Drainage Scheme carried out under the

Arterial Drainage Act (1945) to improve land for agriculture and to alleviate flooding, as noted in section 3.9 of the submitted SSFRA by Punch Consulting Engineers (Punch CE).

- 7.2.2. It is stated in supplementary note 'Response to Notification on decision of refusal to grant permission 23/245' (response document) dated 21 July 2023 by Punch CE that the site is located approximately 700m from the flood defences and the separate report prepared for the appeal by Hydro Environmental Ltd 24 July 2023 confirms that the "site and extensive surrounding areas of Coonagh East and Clondrinagh are within the OPW protected lands from tidal flooding, protected by a large earthen tidal flood embankment designed to protect agricultural lands" .
- 7.2.3. It is accepted by all parties that the subject lands are located in Flood Zones A, B and a small section in C. The planning authority note in the planners report, 26 June 2023, that the location of the proposed dwelling lies outside of Flood Zone A and B. The appellants agree that the proposed dwelling, as noted in the submitted SSFRA, is located within Flood Zone C (page 24). I note that the report from the Flooding Department, 13 June 2023, that they consider that, notwithstanding, what is stated in section 3.17 of the SSFRA estimating the flood zones the topographic information displayed on the site layout drawing indicates that the majority of the proposed dwelling is located within Flood Zone B (i.e. existing ground level ranges from approx. 4.5mOD to 5.11mOD which is below the 0.5% AEP and 0.1% AEP predicted levels of 4.83mOD (in part) and 5.21mOD respectively) and not within Flood Zone C as stated within the SSFRA. In Punch CE's response document submitted as part of the appeal documentation, 21 July 2023, it is reiterated by them that the proposed dwelling and ancillary works (my emphasis) are located in Flood Zone C. For the purposes of my assessment, I am of the opinion that the ancillary works referred to in this response document refers to the sewage treatment system and ancillary site works around the dwelling house and does not include the new driveway and vehicular access as these are clearly within the Flood Zones A and B.
- 7.2.4. Firstly, the issue raised in relation to the Flooding Departments reference to the topographical survey and whether the proposed dwelling is in Flood Zone B or Flood Zone C. PUNCH CE highlight in their response document the topographic survey information was not available for the entire site and that the site layout plan for the planning application extended the topographical survey contours into the un-

surveyed area. Punch CE contend that their assessment of the levels on site is the most accurate representation of levels on the proposed site as an entirety. I, therefore, note there is a lack of clarity on the site levels as the topographical survey does not cover the entirety of the subject site.

- 7.2.5. Secondly and central to the grounds of appeal is the interpretation of whether the dwelling house as the 'proposed development' should be assessed holistically to include the driveway access and new entrance, which is located within Flood Zone A and B or whether, as is put forward by the applicants these can be considered as separate elements in terms of flood risk to the dwelling.
- 7.2.6. Thirdly, issues relating to the adequacy of the breach analysis carried out by Punch CE form part of the applicants response and these are addressed below (7.2.10).
- 7.2.7. The Punch CE SSFRA assessment of site vulnerability is based on the assumption that the section of the site on which the proposed dwelling and ancillary works are located are in Flood Zone C and are, therefore, deemed appropriate development. It is contended that the justification test is not required for this highly vulnerable development, but that 'a Justification Test has been carried out for this site for completeness'. In section 3.17 of the SSFRA it is stated that: 'Only the proposed driveway access is proposed in this Flood Zone A/B designation'. Notwithstanding the dispute as to whether the dwelling house itself is in Flood Zone B, the Guidelines set out the expected key outputs of SSFRA in section 5.9 and, of relevance to this issue is that, the SSFRA output should include detail on how the layout and form of the development can reduce the potential impact of flooding, including arrangements for safe access and egress (my emphasis). I am of the view that both the proposed dwelling house and the proposed access and new entrance are functionally interdependent.
- 7.2.8. A reference, in section 4.6 of the SSFRA, is made that 'emergency access and egress for the proposed development is available from the south with access to the City possible to the east before flood water levels reach their peak...the proposed dwelling is located at a high point and would therefore provide safe refuge during an extreme flood event if required'. These emergency access and egress routes are not illustrated on the drawings, and it is unclear how the southern route in particular would be appropriate given the existing Flood Zones A and B to the south. The

approach taken in the SSFRA has focused on the proposed dwelling house and ancillary site works, I am of the view that adequate consideration of the arrangement for safe access and egress, an integral element of the proposed development, has not been demonstrated. Furthermore, the assumption that the residential development excludes its access and egress point has resulted in an incomplete examination in the Justification Test. I note also that the Justification Test refers to funding allocated for the Limerick City and Environs Flood Relief Scheme schemes. The Strategic Flood Risk Assessment (SRFA) carried out in conjunction with the Limerick Development Plan 2022-2028 makes clear, in section 4.2.2 Tidal and Coastal Flooding, that it is not appropriate to consider the benefits of schemes which have not yet been constructed and which may only be at pre-feasibility or design stage.

- 7.2.9. In addition, whilst the SSFRA (section 3.8 History of Flooding) notes that ‘there have been no instances of flooding on the proposed site’ and the Design Statement (submitted by Aidan O’Brien) which explains that ‘the location of the proposed house was decided upon, due to its close proximity to the farm buildings and the family home, and also that this portion of land is at a high level...the remaining lands to the rear of the proposed site have flooded and would not be suitable’. Given these conflicting statements I am of the opinion that the flood issues and residual risks have not been addressed sufficiently.
- 7.2.10. The applicants rebut Limerick City and County Council (LCCC) Flooding Department’s observations that a limited number of potential breach locations (2 no.) have been shown within the SSFRA and that these do not consider worst-case scenario and, furthermore, that a breach in the flood defences closer to the proposed site would occur ‘rapidly’. The Flooding Department makes the observation that the breach maps referenced within the SSFRA are to the 1% AEP coastal scenario and not that of the more conservative 0.5% AEP scenarios. The response document from Punch CE, 21 July 2023, states that the breach analysis completed in the Punch SSFRA was based on the relevant assessments publicly available in the CFRAM study reports. They do not agree that a breach in the flood defences closer to the proposed site would occur ‘rapidly’.
- 7.2.11. The SFRA carried out for Limerick Development Plan highlights in respect of flooding from flood defence overtopping or breach (section 4.2.3) that the: ‘Shannon CFRAM looked at the impacts of a defence breaching in a number of locations across the

City and has included outlines for such scenarios, although only for a number of limited locations. In April 2019, there was a breach of the Shannon embankments behind the Clondell Road, which saw flood waters come as far in as Clondrinagh and Na Pairsaigh GAA pitch’.

- 7.2.12. The submitted a Site-Specific Flood Risk Assessment (SSFRA), as prepared by Punch CE, with the application states on page 6 of this assessment that the report aligns with Stage 2: Initial Flood Risk Assessment of the recommended three staged approach to undertaking FRA as set out in the Planning System and Flood Risk Management Guidelines (2009).
- 7.2.13. I consider that this is a particularly sensitive site having regard to the above impacts of a breach of the Shannon embankments, noted above, and to the assessment undertaken in the SFRA of the Limerick Development Plan in respect to the zoned lands (including Enterprise and Employment, Local Centre, Existing Residential, Open Space, Semi-natural open space and Agriculture zoned lands) at Coonagh/Clondrinagh (submission LCC-C62-263 refers) which recommends that that any further development should be restricted to infill sites and extensions as per Section 5.28 of the Flood Risk Management Guidelines for Planning Authorities. As such, a full understanding of the effects of flooding in the event of a breach of the current flood defences is essential. In the absence of a detailed flood risk assessment (Stage 3) I accept the planning authority’s position that one cannot be assured that this development is not subject to flood risk or that the element of risk associated with flooding of the access road and entrance to and from the dwelling is adequately mitigated against.
- 7.2.14. It is my submission to the Board that a precautionary approach is necessary in this instance. This area is subject to flood protection measures and a breach in the existing Shannon flood protection measures could potentially impact this area, affecting safe access and egress and potentially water ingress onto the site and/or neighbouring lands and roads.
- 7.2.15. Finally, I note the zoning objective in which one off dwellings will only be considered on agriculturally zoned land outside of Flood Zones A and B and Policy CAF P5 of the Limerick Development Plan which seeks to protect Flood Zone A and Flood Zone B from inappropriate development and direct developments/land uses into the

appropriate lands, in accordance with The Planning System & Flood Risk Management Guidelines for Planning Authorities 2009 (or any subsequent document) and the guidance contained in the Development Management Standards and the Strategic Flood Risk Assessment (SFRA). I further note Objective CAF O25 to have regard to the recommendations set out in the Strategic Flood Risk Assessment prepared to support the Plan.

- 7.2.16. It is my submission to the Board that the proposed development has not been justified, that it would be contrary to the zoning objective, contrary to Policy CAF P5 and it would conflict with the above referenced objective.
- 7.2.17. A further issue of concern is the proposed siting and height of the two-storey dwelling with raised finish floor level due to flood mitigation requirements and as a result of the flood zones being proposed on the high point of this field, instead of the building being contained within the landscape, will result in an overly dominant structure which would visually detract from the clustered setting of the farmyard complex and traditional farm house. I acknowledge that this was not an issue raised in the planning authority's decision or the appeal submission.

7.2.18. **Effluent Treatment**

The proposed development would be served by a private on-site wastewater treatment system. I note the concerns raised in the report from the Environment and Climate Action Department (Limerick City and County Council) that in the event of a flood waste water will not be able to move off site adequately as the ground around the polishing filter would become saturated and may be damaged. I submit to the Board that this site is on a flood plain and that there must be serious public health concerns about discharging final effluent to ground in such a location.

8.0 **Appropriate Assessment**

- 8.1.1. I note the planning authority acknowledged the development is within the immediate catchment of a watercourse that has been designated as a Natura 2000 site and is located within a marine or intertidal area or within 5km of a SAC whose qualifying habitats or species include salmonid, lamprey, mudflats, sandflats, salt marsh, shingle, reefs, and sea cliffs. It was concluded in the planner's report (26/06/23) that

the development should not exercise a significant effect on the conservation status of any SAC or SPA and that appropriate assessment was not necessary.

- 8.1.2. I submit to the Board that, given the proximity of the site of the proposed development to the Lower River Shannon SAC and the River Shannon and River Fergus Estuaries SPA, the proposed provision of an onsite wastewater treatment system to serve the development, being on a flood plain, and the shallow depth to bedrock that prevails at this location that the proposed development should have been subject to appropriate assessment screening and an appropriate assessment screening report should have been submitted by the applicant to the planning authority.

8.2. **Screening for Appropriate Assessment- Test of likely significant effects**

- 8.2.1. The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on a European site(s).
- 8.2.2. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on any European Site.
- 8.2.3. **Brief description of the development**

In summary, the development comprises:

The construction of a two-storey detached dwelling, with the installation of a sewage treatment system, construction of new vehicular access (proposed tar and chip driveway) and ancillary site works. The proposed new entrance requires the removal of the existing sod and stone bank and the proposed new entrance comprises stone entrance piers with new 1.0m high earth berm constructed either side with hawthorn hedging planted on top and native trees planted behind.

- 8.2.4. The development site is described in the Design Statement and pages 4 to 16 of the (Site Specific Flood Risk Assessment, April 2023). It is described as comprising predominantly agricultural land, soil type identified as 'estuarine silts and clays' and 'urban', with a sloping topography. The sites southern and eastern boundaries are mature hedgerow.

8.2.5. Taking account of the characteristics of the proposed development in terms of its location and the scale of works, the following issues are considered for examination in terms of implications for likely significant effects on European sites:

Construction related -uncontrolled surface water/silt/ construction related pollution

Habitat loss/ fragmentation

Habitat disturbance /species disturbance (construction and or operational)

8.2.6. Submissions and Observations

None.

8.3. European Sites

The development site is not located in or immediately adjacent to a European site. The closest European sites are the Lower River Shannon Special Area of Conservation (SAC) (Site Code: 002165) and the River Shannon and River Fergus Estuaries Special Protection Area (SPA) (Site Code: 004077), within 1 Km of the proposed development.

A summary of European Sites that occur within a possible zone of influence of the proposed development is presented in the table below. Where a possible connection between the development and a European site has been identified, these sites are examined in more detail.

8.4. Table 8.4. Summary Table of European Sites within a possible zone of influence of the proposed development.

European Site (code)	List of Qualifying interest /Special conservation Interest	Distance from proposed development (Km)	Connections (source, pathway receptor)	Considered further in screening Y/N
002165	Sandbanks which are slightly covered by sea water all the time [1110] Estuaries [1130] Mudflats and sandflats not covered	1km	Clondrinagh Stream located 125m to the west of the site, a tributary of the Crompaun River which	Y

	<p>by seawater at low tide [1140]</p> <p>Coastal lagoons [1150]</p> <p>Large shallow inlets and bays [1160]</p> <p>Reefs [1170]</p> <p>Perennial vegetation of stony banks [1220]</p> <p>Vegetated sea cliffs of the Atlantic and Baltic coasts [1230]</p> <p>Salicornia and other annuals colonising mud and sand [1310]</p> <p>Atlantic salt meadows (<i>Glaucopuccinellietalia maritima</i>) [1330]</p> <p>Mediterranean salt meadows (<i>Juncetalia maritimi</i>) [1410]</p> <p>Water courses of plain to montane levels with the <i>Ranunculion fluitantis</i> and <i>Callitricho-Batrachion</i> vegetation [3260]</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>) [6410]</p> <p>Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>) [91E0]</p>		<p>in turn is a tributary of the River Shannon.</p>	
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	<p>Margaritifera margaritifera (Freshwater Pearl Mussel) [1029]</p> <p>Petromyzon marinus (Sea Lamprey) [1095]</p> <p>Lampetra planeri (Brook Lamprey) [1096]</p> <p>Lampetra fluviatilis (River Lamprey) [1099]</p> <p>Salmo salar (Salmon) [1106]</p> <p>Tursiops truncatus (Common Bottlenose Dolphin) [1349]</p> <p>Lutra lutra (Otter) [1355]</p>			
004077	<p>Cormorant (Phalacrocorax carbo) [A017]</p> <p>Whooper Swan (Cygnus cygnus) [A038]</p> <p>Light-bellied Brent Goose (Branta bernicla hrota) [A046]</p> <p>Shelduck (Tadorna tadorna) [A048]</p> <p>Wigeon (Anas penelope) [A050]</p> <p>Teal (Anas crecca) [A052]</p> <p>Pintail (Anas acuta) [A054]</p>	1km	Clondrinagh Stream located 125m to the west of the site, a tributary of the Crompaun River which in turn is a tributary of the River Shannon.	Y

<p>Shoveler (<i>Anas clypeata</i>) [A056]</p> <p>Scaup (<i>Aythya marila</i>) [A062]</p> <p>Ringed Plover (<i>Charadrius hiaticula</i>) [A137]</p> <p>Golden Plover (<i>Pluvialis apricaria</i>) [A140]</p> <p>Grey Plover (<i>Pluvialis squatarola</i>) [A141]</p> <p>Lapwing (<i>Vanellus vanellus</i>) [A142]</p> <p>Knot (<i>Calidris canutus</i>) [A143]</p> <p>Dunlin (<i>Calidris alpina</i>) [A149]</p> <p>Black-tailed Godwit (<i>Limosa limosa</i>) [A156]</p> <p>Bar-tailed Godwit (<i>Limosa lapponica</i>) [A157]</p> <p>Curlew (<i>Numenius arquata</i>) [A160]</p> <p>Redshank (<i>Tringa totanus</i>) [A162]</p> <p>Greenshank (<i>Tringa nebularia</i>) [A164]</p> <p>Black-headed Gull (<i>Chroicocephalus ridibundus</i>) [A179]</p> <p>Wetland and Waterbirds [A999]</p>			
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8.5. Identification of likely effects

I again acknowledge the nature of the development and the site being within the flood plain of the River Shannon. This is an area where flood protection measures have been put in place and require to be maintained. It is also a location where there is extensive one-off housing development reliant on the provision and maintenance of private effluent treatment systems. Given these observations, I submit that it could reasonably be considered that potential effects on the referenced European sites may arise by way of impacts on water quality and aquatic ecology and, ultimately protected habitats, which may potentially effect foraging habitat for qualifying species.

8.6. Cumulative in-combination effects could potentially result with other land uses causing runoff into the European sites. Thus, I acknowledge that there is potential for significant cumulative effects with other potential sources of pollution in the area such as other wastewater or runoff from agricultural uses.

8.7. A summary of the outcomes of the screening process is provided in the screening matrix Table 8.7.

Table 8.7				
Site Code	Site Name	Can the possibility of significant effects be excluded at Screening Stage?		
		Habitat Loss	Water Quality and water dependant habitats	Disturbance
002165	Lower River Shannon SAC	Y	N	Y
004077	River Shannon and River Fergus Estuaries SPA	Y	N	N

This determination is based on the following:

- The nature and extent of the proposed development, including the provision of an on-site wastewater treatment system,
- The discharge of final effluent in a location where there is a flood risk, and
- The site being within the floodplain of the River Shannon and thus having potential pathways between the site and the European sites.

8.8. Mitigation measures

No measures designed or intended to avoid or reduce any harmful effects of the project on a European Site have been relied upon in this screening exercise.

8.9. Screening Determination

On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Lower River Shannon Special Area of Conservation (SAC) Code No. 002165 and the River Shannon and River Fergus Estuaries Special Protection Area (SPA) 004077, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

9.0 Recommendation

- 9.1. I recommend that permission is refused in accordance with the following reasons and considerations.

10.0 Reasons and Considerations

1.	Having regard to the site of the proposed development being located in an area at risk of flooding, Flood Zones A, B and C, where flood protection measures for the River Shannon are proximate to protect the site and other lands in the area and the deficiencies in arrangements for safe access and egress from the proposed dwelling undertaken in the Justification Test
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	contrary to the Planning System and Flood Risk Management Guidelines for Planning Authorities (2009) the element of risk associated with flooding is not adequately mitigated against in the design proposal. It is not considered that the proposed development for a highly vulnerable use has passed the justification test for an area which is at risk of flooding. The proposed development would, therefore, be prejudicial to public health and contrary to the proper planning and sustainable development of the area.
2.	It is considered that the applicant has not demonstrated sufficient justification for a house at this location, within the designated rural housing Category 1 Area under strong urban influence, consistent with Objective HO O20 of the Limerick Development Plan 2022-2028. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
3.	On the basis of the information provided with the application and appeal and in the absence of a Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on the Lower River Shannon Special Area of Conservation (SAC) Code: 002165 and the River Shannon and River Fergus Estuaries Special Protection Area (SPA) Site Code:004077, or any other European site, in view of the site's Conservation Objectives. In such circumstances the Board is precluded from granting approval/permission.

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.

Claire McVeigh
Planning Inspector

6 November 2023

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference			
Proposed Development Summary	New two-storey dwelling (209 sq.m) together with a new entrance, sewage treatment system and ancillary site works.		
Development Address	Clondrinagh, Ennis Road, Limerick.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	Yes	√	
	No	No further action required	
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) or does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No	√	Class 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
No		N/A	Conclusion No EIAR or Preliminary Examination required
Yes		Class 10 (b) (i) Construction of more than 500 dwelling units	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No	√	Preliminary Examination required
Yes		Screening Determination required

Inspector: Claire McVeigh Date: 1/11/2023