



An  
Bord  
Pleanála

## Inspector's Report

### ABP-322081-25

<b>Development</b>	Replacement dwelling house as constructed (in lieu of existing derelict dwelling house on site) and all associated site works.
<b>Location</b>	Cloghatacka, Rivermount, Clarina, Co. Limerick
<b>Planning Authority</b>	Limerick City and County Council
<b>Planning Authority Reg. Ref.</b>	2461148
<b>Applicant</b>	Maurice O'Carroll
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant permission
<b>Type of Appeal</b>	Third Party
<b>Appellant</b>	Tony McGrath
<b>Observers</b>	None
<b>Date of Site Inspection</b>	23 <sup>rd</sup> of May 2025
<b>Inspector</b>	Siobhan Carroll

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## **1.0 Site Location and Description**

- 1.1. The appeal site is located in the townland of Cloghatacka and lies approximately 3.8km to the south-west of Clarina village and approximately 11km to the west of Limerick City Centre. The N69 is situated circa 995m to the north.
- 1.2. The site fronts onto Harty Road the L-8048. There is a dormer dwelling immediately to the west and a further dormer dwelling to the north-west. There is a ribbon of dwellings along both sides of the road to the west of the site.
- 1.3. The appeal site has a stated area of 0.33 hectares. There is an existing vehicular entrance serving the site. The site contains a single storey detached dwelling with a floor area of 79sq m. There is a small shed to the north-western corner and the ruins of a dwelling to the eastern side of the site. The roadside boundary is defined by a stone wall by hedgerow.

## **2.0 Proposed Development**

- 2.1. Permission is sought for retention of replacement dwelling house as constructed (in lieu of existing derelict dwelling house on site). Permission is sought for the construction of a new vehicular entrance, block up existing vehicular access, demolish of existing derelict house, installation of a new proprietary domestic waste water treatment system with polishing filter together with all associated site works.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

By Order dated 26/02/2025, Limerick City and County Council granted retention permission for the replacement dwelling house as Constructed (in lieu of existing derelict dwelling house on site) and permission granted for construction of new vehicular entrance, block up existing vehicular access, demolish remainder of existing derelict house, installation of a new proprietary domestic waste water

treatment system with polishing filter together with all associated site works. The permission is subject to 9 no. conditions.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Further information was sought in relation to the following;

1. Submit a detailed Planning Statement clearly setting out a rationale for this development (i) the ruined cottage on site – last time it was occupied (ii) second unit on site – clarification on whether this was used as a dwelling. And if so, provide a ESB connection and date last time lived in.
2. Show sightlines and stopping sight distances of 70m. This detail should include setting back of the existing mature vegetation boundary a minimum of 0.5m behind the sightline envelope, even the vegetation boundary reaches maturity to ensure that sightlines and stopping sight distances are not impeded at any stage going forward.
3. The applicant is requested to submit a proposal for tertiary treatment system. Submit a revised site layout plan and cross section drawing for the tertiary treatment system.
4. Submit a revised proposal for the boundary to the west including a plan and elevations showing the construction of a fence line/wall or additional timeframe for planting a native semi-mature hedge and details of planting in order to help reduce any possible impact on the adjoining property.

3.2.2. Planning Report dated 26/02/2025 - Following the submission of a response to the request of further information it was conclude that the outstanding issues had been satisfactorily addressed, and retention permission and permission was recommended.

#### **3.2.3. Other Technical Reports**

3.2.4. Roads Section: Report dated 17/01/2025 - Approval subject to conditions.

3.2.5. Environment Section: Report dated 26/01/2025 - The Limerick City Southwest ground water status is deemed at risk. In the third cycle of the Water Framework

Directive, the Barnakyle River is deemed at risk. The applicant is requested to submit proposals for a tertiary treatment system onsite.

- 3.2.6. Environment Section: Report dated 24/02/2025 - No objection on environmental grounds. The following condition should be attached to any grant of permission. – The installation of the onsite treatment system and tertiary filter shall be supervised and certified as being fit for purpose and in accordance with planning permission by either the person who carried out the site suitability assessment or by another qualified site suitability assessment agent.

3.2.7. Conditions

Condition no. 4 – refers to the installation of a wastewater treatment system.

Condition no. 7 – refers to the installation of a soakaway and SuDS measures.

Condition no. 8 – refers to the submission of a Refurbishment Demolition Asbestos Survey.

3.3. **Prescribed Bodies**

- 3.3.1. Uisce Éireann - No objections in principle

3.4. **Third Party Observations**

- 3.4.1. The Planning Authority received two objections/submissions in relation to the application the issues raised are similar to those set out in the appeal.
- 3.4.2. Niall Collins T.D. is nominated by the applicant Maurice O'Carroll as a representative on the application.

4.0 **Planning History**

- 4.1.1. Reg. Ref. 24/27 - Permission was sought to retain the demolition of existing single storey dwelling and permission for the reconstruction of dwelling, single storey extension to the rear and associated site works. The application was withdrawn.
- 4.1.2. Reg. Ref. 12/1012 - Permission was sought for the construction of an extension to existing dwelling, permission for completion of works including the reconstruction of

dwelling, single storey extension to the rear and associated site works. The application was withdrawn.

- 4.1.3. Reg. Ref. 08/2485 - Permission was refused for the construction of a dwelling to replace the existing derelict dwelling (which is to be demolished), sewage treatment unit, alteration of existing vehicular entrance and associated site works. Permission was refused for two reasons. The first refers the site being located within the area of Strong Urban Influence as defined in the County Development Plan and that it was considered that a housing need was not established and that the proposed development would materially contravene the objectives of the County Development Plan in relation to rural settlement. The second states that the proposed development would contribute to the extensive ribbon development in the rural area lacking in services and community facilities and that it would be detrimental to the rural character of the area.

- 4.1.4. Adjacent site:

Reg. Ref. 92/565 - Permission was granted for retention of extension to dwelling house, comprising kitchen, bedroom and bathroom.

## **5.0 Policy Context**

### **5.1. National Planning Framework**

- 5.1.1. The National Planning Framework is a planning framework to guide development and investment over the coming years. It empowers each region to lead in the planning and development of their communities, containing a set of national objectives and key principles from which more detailed and refined plans will follow.
- 5.1.2. National Policy Objective 19 - Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment and elsewhere:
- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area and siting and design criteria for

rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlement;

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

## **5.2. Climate Action Plan 2025**

- 5.2.1. The Climate Action Plan 2025 (CAP25) is the third annual update to Ireland's Climate Action Plan. It should be read in conjunction with Climate Action Plan 2024.
- 5.2.2. The purpose of the Climate Action Plan is to lay out a roadmap of actions which will ultimately lead us to meeting our national climate objective of pursuing and achieving, by no later than the end of the year 2050, the transition to a climate resilient, biodiversity rich, environmentally sustainable and climate neutral economy. It aligns with the legally binding economy-wide carbon budgets and sectoral emissions ceilings that were agreed by Government in July 2022.

## **5.3. National Biodiversity Action Plan 2023 – 2030**

- 5.3.1. Ireland's 4th National Biodiversity Action Plan (NBAP) sets the national biodiversity agenda for the period 2023-2030 and aims to deliver the transformative changes required to the ways in which we value and protect nature.

## **5.4. Limerick Development Plan 2022 – 2028**

- 5.4.1. Chapter 4 refers to Housing
- 5.4.2. Section 4.4 refers to Rural Housing
- 5.4.3. 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.

- 5.4.4. Objective HO O22 – Refurbishment/Replacement of Traditional Rural Dwellings - It is an objective of the Council to seek the retention and sympathetic refurbishment, with adaptation if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building. This will be encouraged in preference to their replacement. Planning permission will generally only be granted for replacement of a dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound, or otherwise improved and where the building is not of architectural merit. In this instance, consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of building and normal planning considerations. Local rural housing need shall not apply in this instance.

## **5.5. Natural Heritage Designations**

- 5.5.1. Lower River Shannon SAC (Site Code 002165) is situated circa 762m to the west of the appeal site at the closest point.
- 5.5.2. River Shannon and River Fergus Estuaries SPA (Site Code 004077) is located approximately 938m to the north-west of the appeal site.

## **5.6. EIA Screening**

- 5.6.1. The proposed development has been subject to preliminary examination for environmental impact assessment (refer to Form 1 and Form 2 in Appendices of this report). Having regard to the characteristics and location of the proposed development and the types and characteristics of potential impacts, it is considered that there is no real likelihood of significant effects on the environment. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

## **6.0 The Appeal**

### **6.1. Grounds of Appeal**

A third party appeal was submitted by Tony Mc Grath. The issues raised are as follows;

- There is a previous application on the site which was refused permission. Under Reg. Ref. 08/2485 permission was refused by the Council for failure to establish housing need. The applicant was unable to demonstrate a valid housing need to justify the development. The proposal was found to materially contravene rural settlement policy. The Council also had concerns that the permitting of a dwelling at the site would contribute to undesirable ribbon development.
- The appellant submits that these concerns remain valid and they do not consider it appropriate to grant retention permission where unauthorised development has taken place.
- It is submitted that the applicant does not meet the criteria for rural housing need as set out in the Development Plan.
- It is stated that the information provided in relation to the previous use of the land and the existing structures is not correct. The 'family cottage' which is referenced in the application has been a ruin for over fifty years. This was acknowledged in the planning report for the application Reg. Ref. 08/2485. The 'second house' stated in the application was constructed without planning permission.
- The planning report for Reg. Ref. 08/2485 stated, "SP 8 applies to derelict or run-down houses and ruins. The roof appears to have fallen in whilst the structure is almost completely overgrown with vegetation. The use has long since been abandoned."
- It is submitted that this demonstrated that the site was not in residential use in a way that would justify the granting of retention permission.
- It is considered that the proposed retention of the dwelling is contrary to several key objectives of the Limerick Development Plan 2022-2028 outline in chapter 3: Settlement and Housing Strategy. Objective SS O22 – Rural Settlement Policy. This objective seeks to manage the development of one-off housing in rural areas to ensure it aligns with sustainable planning principles. It is considered that the applicant's lack of demonstration of housing need is contrary to this policy.

- Objective SS O19 – Refurbishment/Replacement of Traditional Rural Dwellings. This objective encourages the retention and sympathetic refurbishment of traditional dwellings. The structure in question has been in a ruinous state for over fifty years. As its use has long since been abandoned, it is therefore unsuitable for refurbishment. The ‘new home’ referred to in the application was built without planning permission. Details submitted with the application included ESB bills for the building. However, this proves that the building had electricity rather than planning permission.
- Council policy explicitly states that suburban type and/or ribbon development is not acceptable in rural areas as set out in the Sustainable Rural Housing Guidelines. It is considered that the granting of retention permission for the proposed dwelling would contribute to such undesirable development patterns.
- It is submitted that the granting of the proposal would set an undesirable precedent for the granting of similar unauthorised developments.
- The appellant raised the matter of impact on residential amenity. They state that during the construction of the property that they experienced noise and disturbance. They state that the location of the subject dwelling has resulted in a reduction of light to one side of their home.
- The appellant respectfully requests that the Board refuse permission for the reasons set out in the appeal.

## 6.2. Applicant Response

A response to the third party appeal was received from Mike Lyons on behalf of the applicant Maurice O’Carroll.

- They draw the attention of the Board to the fact that permission was granted by the Planning Authority after careful considerations and based on the Development Plan policies. In particular in relation to a replacement house in lieu of a substandard house.

- Documentation has been submitted on file to prove the use of a house on the site. This includes ESB bills and a letter from a family member of the previous occupant.
- They confirm that they are happy to implement the planting as conditioned by the Planning Authority.
- They request that the Board uphold the decision to grant permission.

### 6.3. **Planning Authority Response**

- None received

### 6.4. **Observations**

6.4.1. Niall Collins T.D. has requested that he be informed of the decision when it is made.

## 7.0 **Assessment**

Having examined the application details and all other documents on file, including all of the submissions received in relation to the appeal, the reports of the local authority, and having inspected the site, and having regard to the relevant local/regional/national policies and guidance, I consider that the substantive issue in this appeal to be considered is as follows:

- Compliance with Development Plan policy
- Residential amenity

### 7.1. **Compliance with Development Plan policy**

7.1.1. The grounds of appeal primarily concern compliance with rural housing policy. It is contended that the applicant does not meet the criteria for rural housing need as set out in the Development Plan. The appellant also referred to a previous application Reg. Ref. 08/2485 for the construction of a dwelling to replace the existing derelict dwelling on the site which was refused permission.

- 7.1.2. The proposal entails the retention of a replacement dwelling house as constructed which is in lieu of existing derelict dwelling house on site. The subject site, which is located at Cloghatacka, Rivermount Clarina, Co. Limerick is located in an area which is categorised as an Area under Strong Urban Influence as illustrated on Map 4.1: Rural Housing Strategy Map of the Limerick Development Plan 2022 – 2028.
- 7.1.3. Chapter 4 of the Limerick Development Plan 2022 – 2028 refers to Housing and Section 4.4 sets out policy in relation to rural housing. 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.
- 7.1.4. Objective HO O22 of the Plan refers to Refurbishment/Replacement of Traditional Rural Dwellings. It states that it is an objective of the Council to seek the retention and sympathetic refurbishment, with adaptation if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building. This will be encouraged in preference to their replacement. Planning permission will generally only be granted for replacement of a dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound, or otherwise improved and where the building is not of architectural merit. In this instance, consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of building and normal planning considerations. Local rural housing need shall not apply in this instance.
- 7.1.5. The report of the Planning Officer acknowledged that there was a dwelling on the site in the past and that the remains of that dwelling were in place. They determined that in order for them to rule out the requirement to assess the proposal under the provisions of Objective HO O20 of the Development Plan that the applicant should provide a Planning Statement setting outlining a rationale for the proposal. The report of the Planning Officer referred to a previous application on the site, Reg. Ref. 12/1012 where permission was sought for the construction of an extension to existing dwelling, permission for completion of works including the reconstruction of dwelling, single storey extension to the rear and associated site works. They noted that the report of the Planning Officer in respect of Reg. Ref. 12/1012 referenced an agreement which was made with the Senior Planner whereby the proposed dwelling

would be treated as a replacement dwelling and that the proposal did not required to be assessed under the provisions of the rural housing need policy which was in place in the operative development plan at the time. On that basis the report of the Planning Officer in relation to the current proposal determined that a dwelling did exist on site.

- 7.1.6. Accordingly, the Planning Authority in their assessment of the application sought further information. They requested that the applicant provide information specifically a detailed Planning Statement clearly setting out a rationale for this development (i) the ruined cottage on site – last time it was occupied (ii) second unit on site – clarification on whether this was used as a dwelling. And if so, provide a ESB connection and date last time lived in.
- 7.1.7. The applicant provided a written response and document in relation to the matters raised. They stated that the ruined cottage was in use up to 1994 and the previous owner then moved into a second dwelling and that second dwelling is the dwelling on site which is the subject of the application. A letter from the nephew of the previous owner of the property was submitted which stated that then owner Mr. Costello moved from the ruined house on the site in 1994 and lived in the second dwelling until 2001 when he passed away. The response included two ESB bill for the property. One bill dates from 2016 and the second from 2024. It is highlighted in the response that the applicant was unable to obtain copies of bill before 2016 for GDPR reasons.
- 7.1.8. The report of the Planning Officer dated 25/2/2025 in response to the further information received noted the information provided by the applicant and they were satisfied that it demonstrated that a dwelling did exist on the site and the proposed retention of the replacement of that dwelling would be in accordance with Objective HO O22 of the development plan.
- 7.1.9. The grounds of appeal have disputed the information provided in relation to the history of the site. It was highlighted in the appeal that the subject dwelling proposed to be retained had not received planning permission. The previous application Reg. Ref. 08/2485 which refers to the site was raised in the appeal. Under Reg. Ref. 08/2485 permission was refused for the construction of a dwelling to replace the existing derelict dwelling (which is to be demolished), sewage treatment unit,

alteration of existing vehicular entrance and associated site works. Permission was refused for two reasons. The first referred to the site being located within the area of Strong Urban Influence as defined in the County Development Plan and that it was considered that a housing need was not established. The second stated that the proposed development would contribute to the extensive ribbon development in the rural area lacking in services and community facilities and that it would be detrimental to the rural character of the area. I note the reference to the planning history on the site and previous refusal of permission which was made having regard to the provisions of the development plan in force at the time.

7.1.10. In relation to the current application the crux of the appeal relates to the existence of a residential property on the site and whether the proposal can be considered a replacement of such a property. From the details provided on file, it would appear that the use of the ruined property on the site as a dwelling house ceased in 1994 when it became derelict and that the second dwelling was then built and occupied by the previous owner. This is based on the letter from Mr. Jodie Fitzgerald the nephew of the previous owner the late Joseph Costello which confirmed that Mr Costello lived in the second dwelling on the site until 2001 and prior to that he resided in the new ruined dwelling on the site until 1994.

7.1.11. The Planning Authority have accepted that there was previously a dwelling on site which was occupied and that residential occupancy on the site continued in the house which was built and for which retention permission is currently sought. While I would note that the dwelling which was constructed did not receive permission, this is based on the information in the report of the Planning Officer which refers to Court proceedings (DC-488-23) in relation to the building on the site. This building, the subject dwelling proposed for retention, did provide for the continued residential occupation of the site. I consider that this is a reasonable approach for the Planning Authority to conclude that as a dwelling previously existing on the site and which was occupied until 1994 with the second dwelling then occupied by the previous owner until 2001 that there was residential occupancy in this period. The submitted ESB bill dated 7/10/2016 was submitted as part of the response to the request for further information and it refers to the second dwelling and not the ruined structure on the site. This indicates that there was residential occupancy of the second dwelling at that time. Therefore, I would consider that the proposal can be assessed on the



basis that it represents a replacement dwelling rather than as a new residential property which would require the proposal to be assessed in accordance with compliance with rural housing policy under Objective HO O2O of the development plan.

- 7.1.12. The grounds of appeal raised the matter of ribbon development. The appellant contends that the proposal would be contrary to the provisions of the Sustainable Rural Housing Guidelines and that it would contribute to an undesirable pattern of development in the rural area. In relation to this matter, I would highlight that the proposal is to retain the dwelling which was built on the site in lieu of the existing derelict dwelling house on site. On that basis the proposal represents the replacement of a previously existing dwelling on the site, and it would not result in an increase in residential development at this rural location. Accordingly, I do not consider that it would exacerbate ribbon development.
- 7.1.13. In conclusion, on the basis of the information provided on file, I would concur with the assessment of the Planning Authority that the proposal does not require to be assessed under the provisions of Objective HO O2O of the Limerick Development Plan 2022-2028 which refers to rural housing need.
- 7.1.14. Accordingly, I would conclude that the application is in accordance with the provisions of Objective HO O22 of the Limerick Development Plan 2022-2028 which refers to the Refurbishment/Replacement of Traditional Rural Dwellings and that the principle of the subject dwelling is acceptable on that basis.

## **7.2. Residential amenity**

- 7.2.1. The grounds of appeal raised the matter of impact on residential amenity. The appellant stated that the location of the subject dwelling has resulted in a reduction of light to one side of their home.
- 7.2.2. In relation to this matter, I note that the subject dwelling is single storey, it has a mono-pitched roof and a ridge height of 5.5m. It is located approximately 9.5m to the east of the appellant's dwelling at the closest point. The boundary between the properties is formed by a mature hedge of circa 2m in height. Having regard to the separation distance provided and the siting and design of the subject dwelling, I am satisfied that potential overshadowing and any loss of daylight would be very limited.

Accordingly, I am satisfied that it would not negatively impact on the residential amenities of the appellant's property.

## **8.0 AA Screening**

- 8.1.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000, as amended.
- 8.1.2. The subject site is located approximately 762m, at the closest point from Lower River Shannon SAC (Site Code 002165). River Shannon and River Fergus Estuaries SPA (Site Code 004077) is located approximately 938m to the north-west of the appeal site.
- 8.1.3. The proposed development comprises the retention of replacement dwelling house as constructed (in lieu of existing derelict dwelling house on site), the construction of a new vehicular entrance, block up existing vehicular access, demolish of existing derelict house, installation of a new proprietary domestic waste water treatment system with polishing filter, providing tertiary treatment together with all associated site works.
- 8.1.4. No nature conservation concerns were raised in the planning appeal.
- 8.1.5. No streams/watercourses are identified on site.
- 8.1.6. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any European site. The reason for this conclusion is as follows:
  - The small scale and nature of the development.
  - The distance to the nearest European sites, and the absence of any hydrological or other pathways.
- 8.2. Taking into account the screening report of Limerick City and County Council.
- 8.3. I conclude on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects.

- 8.4. Likely significant effects are excluded and therefore Appropriate Assessment (stage 2) under Section 177V of the Planning and Development Act 2000, as amended, is not required.

## **9.0 Water Framework Directive**

- 9.1. The proposed development has been subject to a screening for Water Framework Directive Assessment (refer to Appendix 3 of this report).
- 9.2. The subject site is located in the townland of Cloghatacka and lies approximately 3.8km to the south-west of Clarina village, Co. Limerick. The River Maigue a tributary of the River Shannon is situated circa 796m to the west. The Barnakyle River is a tributary of the River Maigue. It is located 969m to the north of the site and a stream which drains into the Barnakyle River is located 337m to the east of the site. The Limerick City Southwest (IE\_SH\_G\_141) groundwater body underlies the site.
- 9.3. The proposed development comprises the retention of replacement dwelling house as constructed (in lieu of existing derelict dwelling house on site), the construction of a new vehicular entrance, block up existing vehicular access, demolish of existing derelict house, installation of a new proprietary domestic waste water treatment system with polishing filter, providing tertiary treatment together with all associated site works.
- 9.4. No water deterioration concerns were raised in the appeal.
- 9.5. The report of the Environmental Section dated 26/1/2025 highlighted that the Limerick City Southwest (IE\_SH\_G\_141) groundwater body status is deemed at risk. In the third cycle of the Water Framework Directive, the Barnakyle River is deemed at risk. The report recommended that the applicant be requested to submit proposals for a tertiary effluent treatment system. The revised proposals submitted on 6/2/2025 include the provision of an on-site effluent treatment system including tertiary treatment. The Planning Authority granted permission and no issues were raised by Environmental Health, the treatment of wastewater was not raised in the grounds of appeal and I have no reason to believe that effluent can not be treated on the site.
- 9.6. I have assessed the proposed the retention of replacement dwelling house as constructed (in lieu of existing derelict dwelling house on site) and the construction of

a new vehicular entrance, block up existing vehicular access, demolish of existing derelict house, installation of a new proprietary domestic waste water treatment system with polishing filter, providing tertiary treatment together with all associated site works.

9.7. I have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

9.8. The reason for this conclusion is as follows:

- The nature and scale of the development
- The proposed tertiary treatment of on-site effluent which will remove inorganic compounds, pathogens, nitrogen and phosphorous to mitigate groundwater contamination.

## **Conclusion**

9.9. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## **10.0 Recommendation**

10.1. I recommend that retention permission and permission be granted for the following stated reasons and considerations.

## 11.0 Reasons and Considerations

- 11.1. Having regard to the nature and scale of the proposed development, the pattern of development in the vicinity and the relevant policies of the Limerick City and County Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the proposed development would be appropriate in terms of compliance with Objective HO O22 of the development plan whereby the existing derelict dwelling will be demolished and replaced by the subject dwelling for retention. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 12.0 Conditions

1. The development shall be retained and completed in accordance with the plans and particulars lodged with the application, and as amended by the submitted on the 6<sup>th</sup> day of February 2025, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

**Reason:** In the interest of clarity.

2. Within three months of the final grant of permission, the applicant shall submit evidence confirming that the existing derelict dwelling has been demolished for the written agreement of the Planning Authority.

**Reason:** In the interest of residential and visual amenity and the orderly development of the area.

3. Sightlines shall be agreed in writing with the Planning Authority prior to the commencement of development. Sight distance triangles shall be maintained and kept free from vegetation or other obstructions that would reduce the minimum visibility required.

**Reason:** In the interest of traffic safety.

4. Water supply and drainage arrangements, including the attenuation and disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

**Reason:** In the interest of public health.

5.
  - (a) The wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 6th day of February 2025 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ ) ” – Environmental Protection Agency, 2021.
  - (b) Treated effluent from the wastewater treatment system shall be discharged to a percolation area which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )” – Environmental Protection Agency, 2021.
  - (c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

**Reason:** In the interest of public health and to prevent water pollution.

6. No later than one month prior to the demolition of the existing dwelling, an RDAS (Refurbishment Demolition Asbestos Survey) shall be submitted to the Planning Authority for written agreement. The RDAS shall be completed by a suitably qualified/competent person and photographic evidence provided as to the presence/absence of asbestos. The RDAS shall be carried out in accordance with Section 8 of the Health and Safety Authority, Asbestos Guidelines (Practical Guidelines on ACM Management and Abatement).

**Reason:** In the interest of public health.

7. The hedgerow on the western boundary shall be planted within the next planting season. Should the hedgerow become diseased, damaged or removed it shall be replanted within the next planting season.

**Reason:** In the interest of residential and visual amenity.

8. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the 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.

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Siobhan Carroll  
Planning Inspector

17<sup>th</sup> of June 2025

## Appendix 1

### Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ABP 322081-25
<b>Proposed Development Summary</b>	Replacement dwelling house as constructed, in lieu of existing derelict dwelling house on site and all associated site works.
<b>Development Address</b>	Cloghatacka, Rivermount Clarina, Co. Limerick.
	<b>In all cases check box /or leave blank</b>
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>  (For the purposes of the Directive, "Project" means: - The execution of construction works or of other installations or schemes,  - Other interventions in the natural surroundings and landscape including those involving the extraction of mineral resources)	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.  <b>EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.</b>	
<input type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed</b>	



road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.  <b>EIA is Mandatory. No Screening Required</b>	
<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.  <b>Preliminary examination required. (Form 2)</b>  <b>OR</b>  <b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b>	Part 2, Class 10(b)(i) construction of more than 500 dwellings  The proposed development does not equal or exceed the 500 dwelling threshold,

4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

## Appendix 2

### Form 2 - EIA Preliminary Examination

<b>Case Reference</b>	ABP 322081-25
<b>Proposed Development Summary</b>	Replacement dwelling house as constructed, in lieu of existing derelict dwelling house on site and all associated site works.
<b>Development Address</b>	Cloghatacka, Rivermount Clarina, Co. Limerick.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	The nature and size of the development comprising the replacement of a dwelling house as constructed in lieu of existing derelict dwelling and development of an existing with on-site effluent treatment system is not exceptional in the context of the existing rural environment. The proposed development will not result in the production of any significant waste, emissions or pollutants. Localised construction impacts will be temporary. The development, by virtue of its type (residential), does not pose a risk of major accident and/or disaster.
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	The development is situated in a rural area with a residence located to the south and also a residence located on the opposite side of the road to the south-east.  The development is removed from sensitive natural habitats, centres of population and designated sites and landscapes of identified significance in the County Development Plan.

<b>Types and characteristics of potential impacts</b>  (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There is no real likelihood of significant effects on the environment arising from the proposed development. There is no real likelihood of significant cumulative effects having regard to existing or permitted projects.
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
There is no real likelihood of significant effects on the environment.	EIA is not required.
There is significant and realistic doubt regarding the likelihood of significant effects on the environment.	<del>Schedule 7A Information required to enable a Screening Determination to be carried out.</del>
There is a real likelihood of significant effects on the environment.	<del>EIAR required.</del>

Inspector: \_\_\_\_\_ Date: \_\_\_\_\_

DP/ADP: \_\_\_\_\_ Date: \_\_\_\_\_

(only where Schedule 7A information or EIAR required)



### Appendix 3

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Bord Pleanála ref. no.	322081-25	Townland, address	Cloghatacka, Rivermount Clarina, Co. Limerick
Description of project		Replacement dwelling house as constructed, in lieu of existing derelict dwelling house on site and all associated site works.	
Brief site description, relevant to WFD Screening,		The site is located within a rural area at a low elevation of approximately 10m contour. There are dry drains surrounding the site. The soil type is Till derived chiefly from limestone which is deep and well drained. The bedrock is Visean Limestones. The River Maigue a tributary of the River Shannon is situated circa 796m to the west. The Barnakyle River a tributary of the River Maigue. It is located 969m to the north of the site and a stream which drains into the Barnakyle River is located 337m to the east of the site.	
Proposed surface water details		Soaks aways proposed	
Proposed water supply source & available capacity		Uisce Éireann mains water connection	

Proposed wastewater treatment system & available capacity, other issues			Secondary Treatment System and soil polishing filter to discharge to Ground Water with a PE of 6 is proposed.			
Others?			No			
Step 2: Identification of relevant water bodies and Step 3: S-P-R connection						
Identified water body	Distance to (m)	Water body name(s) (code)	WFD Status	Risk of not achieving WFD Objective e.g.at risk, review, not at risk	Identified pressures on that water body	Pathway linkage to water feature (e.g. surface run-off, drainage, groundwater)
River Waterbody	337m	BARNAKYLE_020	Moderate	At risk	Agriculture, Urban Run-off	Yes -drainage ditches hydrologically connected to watercourses
River Waterbody	796m	MONDELLIHY_10	Poor	Under review	No pressures	Not hydrologically connected to surface watercourse
Transitional Waterbody		Upper Shannon Estuary	Poor	At risk	Agriculture	Not hydrologically connected to transitional waterbody

		IE_SH_060_0800					
Transitional Waterbody	796m	MAIGUE ESTUARY IE_SH_060_0700	Moderate	At risk	Agriculture	Not hydrologically connected to transitional waterbody	
Groundwater Waterbody	Underlying Site	Limerick City Southwest IE_SH_G_141	Good	At risk	Agriculture	Free draining soil conditions	
Step 4: Detailed description of any component of the development or activity that may cause a risk of not achieving the WFD Objectives having regard to the S-P-R linkage.							
CONSTRUCTION PHASE							
No.	Component	Water body receptor (EPA Code)	Pathway (existing and new)	Potential for impact/ what is the possible impact	Screening Stage Mitigation Measure*	Residual Risk (yes/no)  Detail	Determination** to proceed to Stage 2. Is there a risk to the water environment? (if 'screened' in or 'uncertain' proceed to Stage 2.
1.	Site clearance/Construction	BARNAKYLE_020	Existing drainage ditches, watercourse	Siltation, pH (concrete), hydrocarbon spillages	Standard construction practice	No	Screened out

OPERATIONAL PHASE							
2.	Discharges to Ground	Limerick City Southwest IE_SH_G_141	Pathway exists	Treated effluent to discharge to groundwater	Tertiary Effluent Treatment system with polishing filter proposed which will remove inorganic compounds, pathogens, nitrogen and phosphorous to mitigate groundwater contamination	No	Screened out
DECOMMISSIONING PHASE							
3.	NA	NA	NA	NA	NA	NA	NA