



An
Coimisiún
Pleanála

Inspector's Report

ACP 323097-25

Development

Construction of two-storey extension, comprising of an independent family residence to the existing dwelling, the demolition of an existing garage and all associated site works.

Location

Mill Race, Golf Links Road,
Ballysimon, Co. Limerick.

Planning Authority

Limerick City and County Council

Planning Authority Reg. Ref.

2560285

Applicant

Mary Parkes

Type of Application

Refusal of permission.

Planning Authority Decision

Permission with conditions.

Type of Appeal

First Party

Appellants

Mary Parkes.

Observers

None

Date of Site Inspection

4th September 2025.

Inspector

Derek Daly

1.0 Site Location and Description

- 1.1. The development is located on the southeastern fringe of Limerick city in the suburb of Ballysimon. The site has frontage onto Golf Links Road which defines the site's northwestern boundary. The road is relatively narrow in width with no footpaths and a stone wall with a vehicular access defines this boundary. The southwestern boundary of the site adjoins the River Groody, the eastern boundary adjoins what appears to be a millrace and the southeastern boundary a pond part of which is located within the appeal site. The remaining site boundaries comprise mature planting. There is a dwelling to the northeast on the other side of the millrace not readily visible from the appeal site and residential properties to the southwest and south on the other bank of the River Groody which are also not readily visible from the appeal site.
- 1.2. On the appeal site is a substantial two storied detached dwelling which has its main axis at right angles to the public road and is centrally located on the site. There is also a detached garage located to the southeast of the dwelling.
- 1.3. The site has a stated area of 0.497 hectares.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 3rd April 2025 was for;
 - The demolition of the existing garage building. The stated area of any demolition is 107.45m²;
 - The construction of a new two storey extension, comprising of an independent family residence to the existing dwelling. The proposal incorporates a modern design which is partially mono-pitched on the elevation facing towards the road with a large section flat roofed with overall height varying between 7350 and 5450 mm on the monopitch section and 6160mm on the flat roof section. A mix of external finishes are proposed including stone plaster and timber. The proposed extension has an irregular footprint broadly rectangular in the northern sections and tapering in a southerly direction.

The proposal provides for a full living accommodation on the ground floor and five bedrooms on the first floor. A single storey lobby area is proposed between the existing dwelling and the proposed extension providing access to the dwelling and extension and which also provides access to the front driveway area and rear garden. The gross floor area of the proposed works is stated as 386.60m².

The existing gross floor space of any existing buildings on the site which would largely incorporate the existing dwellinghouse and garage is stated as 783.00m² and the gross floor space of work to be retained is stated as 675.55m².

- It is proposed to connect to existing piped services.
- A Project Description document accompanied the planning application which indicating that the project intent is to accommodate an extension to the existing house that serves as an independent wing to the main house, providing accommodation for the applicant's son and his family.

It is indicated that the existing house and proposed extension have a proposed finished floor level of 15.7 Metres OD and that this level is circa 2.7m plus above the level of the river bank edge to the south of the site with a varying level of 1m+ above the median level of the Groody River. To the north of the proposed extension, there is a millrace which effectively forms the Northern Boundary of the site. The level of the millrace water flow is managed and maintained at a level of 15.02m. The sluice gate maintains this level as a maximum level with water from the Millrace flowing to water reservoir which has a varying level but typically at 12.39m which is more or less the level of the Groody River at the outfall location. The overall design concept and its integration with the existing dwelling and surrounds is outlined.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to refuse planning permission and three reasons were stated;

3.1.2. The first reason refers to; *Having regard to Objective HO O11 Subdivision of Dwelling to Accommodate Dependent Relative of the Limerick Development Plan (2022-2028), as it considered that the proposed development is excessive in size, not subservient to the main dwelling, and there is no justification that the proposals falls within the criteria where such development is considered. Therefore, the proposed development does not comply with this Objective of the Limerick Development Plan (2022-2028) and is considered contrary to the proper planning and sustainable development of the area.*

The second reason refers to; *The proposed development, given its proximity to Mill Race watercourse, does not comply Objective EH O18 Riparian Buffers in respect of the insufficient buffer distance to this water course. Therefore, and having regard to the hydrological connection of the watercourse to the Lower River Shannon SAC, and based on the details provided, the Planning Authority is not satisfied that the proposed development would not have an impact on the integrity of the Natura 2000 site. Therefore, the proposal would materially contravene Objective EH O1 – Designated Sites and Habitats Directive of the Limerick Development Plan and (2022-2028).*

The third reason refers to; The proposed development, by means of the highly vulnerable residential use proposed, the location of the site within Flood Zone A and the absence of a Flood Risk Assessment to justify the proposal, is considered to be contrary to Policy CAF P5 of the Limerick Development Plan (2022-2028).

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 21st May 2025 refers to the site history, an AA Screening Examination indicating that the applicant has not submitted an AA Screening Report in support of the application and that an AA Screening examination was undertaken, it was considered that there is a hydrological connection to the Lower River Shannon SAC (site code 002165) and concluded that it is uncertain whether the proposal will have a significant effect on a European Site and an AA is therefore required and the proposal is therefore considered to be contrary to Objective EH O1 – Designated Sites and Habitats Directive. The report

refers to provisions of the statutory development plan, submissions received internally and externally which do not raise objections.

In relation to assessing the proposal, the main issues included the principle of Development noting that given the scale and layout of the proposal it is considered that the proposed development would effectively be a new dwelling rather than an extension of an existing dwelling and residential development on lands zoned Groody Valley Wedge is not permitted under the provisions of the Limerick Development Plan (2022-2028). Reference is made to Objective HO O11 Subdivision of Dwelling to Accommodate Dependent Relative however it appears from the documentation submitted, that the PA consider the proposal is a separate and independent house or that the proposed development cannot be classified as being subservient to the main dwelling given its scale and it is unclear how the applicants' son and his family cannot be accommodated within the existing dwelling. Reference is made to concerns in relation to flood risk and in addition Objective EH O18 of the Limerick Development Plan specifies that a 20 metre riparian buffer is kept free of development from watercourses; the siting of the proposed development is circa 3 metres from the watercourse and does not align with this objective.

Refusal of permission was recommended

- 3.2.2. Roads/ engineering report dated the 20th May 2025 refers to refers to surface water management and flooding and recommends approval subject to condition.

3.3. Other submissions.

- 3.3.1. Transport Infrastructure Ireland (TII) in a submission dated Report the 15th April 2025 requests that the Planning Authority should take into consideration national policy provisions including impacts on the existing light rail network.
- 3.3.2. Uisce Eireann in a submission dated the 3rd of May 2025 indicate no objection to the proposed development.
- 3.3.3. Mid-West National Road Design office in a submission dated 9th May 2025 indicate no observations in relation to the proposed development.

4.0 Planning History

- 4.1.1. No relevant history to the site.

- 4.1.2. Reference is the grounds of appeal to two appeal decisions ABP 316088-23, ABP 321271-24 and ABP 319608-24 in support of the current proposal.

5.0 Policy and Context

5.1. Development Plan

- 5.1.1. The statutory development plan is the Limerick Development Plan 2022-2028.
- 5.1.2. The site is zoned Groody Valley Wedge on map 3: Limerick City and Suburbs (in Limerick), including Mungret and Annacotty - Zoning Map.
- 5.1.3. Chapter 12 refers to Land Use Zoning Strategy and in section 12.3 Land Use Zoning Objectives it is indicated that the objective is to preserve and protect the Groody Valley from development with the purpose to maintain the area's importance in preventing the encroachment of the built up area of Limerick City and to retain its important role as a wildlife corridor and a flood management zone.

Section 12.4 refers to a Land Use Zoning Matrix and residential is defined as not permitted. A generally not permitted use is one that would be incompatible with the zoning policies or objectives for the area, would conflict with the permitted/existing uses and would be contrary to the proper planning and sustainable development of the area. It also indicates non-conforming uses are uses which do not conform to the zoning objective for the area in which they are located. Where legally established, extensions or improvements to these uses shall be considered on their merits on a case-by case basis, where they do not adversely affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development.

- 5.1.4. Chapter 4 refers to Housing and Objective HO O3 Protection of Existing Residential Amenity states as an objective of the Council to ensure a balance between the protection of existing residential amenities, the established character of the area and the need to provide for sustainable new development.

Section 4.2.13 specifically refers to Housing for Dependent Relatives and that the Council will encourage the provision of suitable housing for people with a sensory disability, mental health disability, physical disability and intellectual disability, in appropriate locations served by public transport, local community services and

facilities. All development shall comply with Part M of the Building Regulations or any replacement hereafter.

Objective HO O11 Subdivision of Dwelling to Accommodate Dependent Relative It is an objective of the Council to facilitate the provision of accommodation for older people and dependant relatives within the existing family home, subject to compliance with the following criteria:

- Accommodation by way of extension shall be attached to the main dwelling;
- There shall be an internal connecting door with the main residence;
- The extension shall be subservient to the main dwelling;
- On vacancy of the unit, the accommodation shall be integrated with the main dwelling. No such unit shall be used as rental accommodation. There will be a presumption against proposals for detached independent units within the curtilage of a dwelling, regardless of urban or rural location. Proposals must accord with planning considerations such as residential amenity, environmental and public health standards and traffic safety.

5.1.5. Chapter 6 refers to Environment, Heritage, Landscape and Green Infrastructure and section 6.3.2 to Protected Sites and Species.

Objective EH O1 refers to Designated Sites and Habitats Directive and that *it is an objective of the Council to ensure that projects/plans likely to have significant effects on European Sites (either individually or in combination with other plans or projects) are subject to an appropriate assessment and will not be permitted under the Plan unless they comply with Article 6 of the Habitats Directive. The Council, will through the planning enforcement process where applicable, seek to restore the ecological functions of designated sites, where they have been damaged through inappropriate development.*

Objective EH O18 refers to Riparian Buffers and *it is an objective of the Council to maintain riverbank vegetation along watercourses and ensure protection of a 20m riparian buffer zone on greenfield sites and sites are maintained free from development. Proposals shall have cognisance of the contents of the Inland Fisheries Ireland document Planning for Watercourses in Urban Environments.*

- 5.1.6. Chapter 9 refers to Climate Action, Flood Risk and Transition to Low Carbon Economy and section 9.3 specifically to Flooding, Flood Risk Management and Water Management and that the Section 28 Planning Guidelines The Planning System and Flood Risk Management (DHPLG/OPW, 2009) and associated Technical Appendices and Circulars, are the basis of the Council's policy in relation to development and flood risk management.

Policy CAF P5 Managing Flood Risk refers to;

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 in relation to Flood Risk Assessments refers to;

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.

5.1.7. Appendix 1 outlines a statement outlining compliance with Section 28 Guidelines.

5.2. National Guidance.

5.2.1. Flood Management Guidelines, 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities November 2009'.

5.2.2. The Planning System and Flood Risk management – Guidelines for Planning Authorities" (OPW 2009) outlines guidance in relation to assessment of development in relation to flood risk, with the objectives to avoid inappropriate development in areas at risk of flooding; avoid new developments increasing flood risk elsewhere and ensure effective management of residual risks for development permitted in floodplains.

5.2.3. It is indicated a staged approach should be adopted to flood risk with the application of stages of appraisal and assessment to appraise the adequacy of existing information and to scope the extent of the risk of flooding and a detailed flood risk assessment to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development or land to be zoned, of its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

5.2.4. Section 2.23 refers to flood zones and there are three types or levels of flood zones defined for the purposes of the Guidelines: Flood Zone A where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding); Flood Zone B where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and Flood Zone C where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding). Flood Zone C covers all areas of the plan which are not in zones A or B. A

sequential approach is outlined in relation to assessment of proposed development within each flood zone.

- 5.2.5. Chapter 5 outlines Flooding and Development Management, stages of development management and identification of flood risk and where necessary the application of the justification test. Permission should be refused where flood issues have not been, or cannot be, addressed successfully and where the presence of unacceptable residual flood risks remain for the development, its occupants and adjoining property.
- 5.2.6. In relation to assessment of minor proposals in areas of flood risk section 5.28 indicates that *applications for minor development, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal.*
- 5.2.7. The guidance also include technical appendices in relation to the identification and assessment of flood risk and addressing flood risk management in design of development.

5.3. Natural Heritage Designations

- 5.3.1. The subject site is not located within site designated as a Natura 2000 site or NHA/pNHA. It has a hydrological connection to the Lower River Shannon SAC (site code 002165) arising from its proximity to the Groody River and a millrace which flows to the Groody River and which approximately 3 kilometres downstream flows into River Shannon.

6.0 EIA Screening

- 6.1. The proposed development has been subject to preliminary examination for environmental impact assessment and in this regard, I refer to Form 2 in Appendix 1 of this report. 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. The proposed development, therefore, does not trigger a requirement for environmental impact assessment screening and an EIAR is not required.

7.0 The Appeal

7.1. Grounds of Appeal

- 7.2. The appellant grounds of appeal in summary refers to;

7.2.1. In relation to the first reason for refusal

- it is contended that the proposed development complies with Objective HO O11 Subdivision of Dwelling to Accommodate Dependent Relative which is designed to support the accommodation of dependent family members within the curtilage of the existing dwelling and proposal is to provide self-contained accommodation for the applicant's son, partner and children.
- The proposed development is smaller and subservient to the existing dwelling is 386m² in area compared to the existing dwelling which is 783m² in area.
- The extension forms part of the main dwelling and can be physically connected, is not a second dwelling or detached and can be conditioned in this regard.
- The area of the proposed extension is already a developed area.
- Reference is made to precedent and previous appeal decisions where physical linkage and subservience were decisive.

7.2.2. In relation to the second reason for refusal;

- Objective EH O18 refers to Riparian Buffers which has a primary aim to avoid disturbance of sensitive ecological areas, protect water quality and reduce encroachment into area of natural flood dynamics and it is contended that the millrace is not a natural or ecologically functioning watercourse which is controlled by numerous sluice gates and operates as a controlled culvert.
- The dwelling and extension at 15.7OD are well above the Millrace channel at 15.02OD and does not intrude on soft ground and the closest point of construction 1.5 to 2 metres from the bank.
- There is no works proposed on natural habitat and will be on existing disturbed developed ground.
- A series of mitigation measures are proposed to enhance biodiversity and the use of SuDS measures.
- Precedence is referred to in relation to an appeal decision riparian setback and given the nature of disturbance already existing this supports a reduced buffer area with the use of mitigation measures.

7.2.3. In relation to the third reason for refusal

- Objective CAF P5 reflects national guidance development should occur outside of Flood Zone A but recognises the importance of considering site specific and historic performance in clarifying mapped designations.
- Reference is made to the relative height of the dwelling 15.7m OD and the Groody River and that it is over 2.7m OD above the edge of the river.
- The millrace is controlled at a level of 15.02m OD by sluices and discharges to a quarry at 12.39m OD providing a pressure relief mechanism during a flood and has a controlled overflow mechanism not in place for natural or unmanaged flood dynamics.
- There is no known record of flooding and the dwelling on the site was granted planning permission in 2008.
- The appellant is prepared to undertake a Flood Risk Assessment and implement mitigation measures if required.

7.2.4. Other matters

- The proposal represents a high quality of design, provides for efficient use of land, avoids ecological intrusion, provides for social

7.3. Planning Authority Response

- 7.3.1. The planning authority has not submitted a response to the appeal submission.

8.0 Assessment

- 8.1. The main issues in this appeal related to the matters raised in the reasons for refusal. The first reason would relate to the principle of the development and the development plan provisions in particular Objective HO O11 which refers to subdivision of a dwelling to accommodate a dependent relative of the Limerick Development Plan (2022-2028). The second and third reasons for refusal in the planning authority's decision to refuse planning permission which refer to the issue of flooding and potential hydrological connection to a Natura 2000 site and Appropriate Assessment which in this context needs to be considered. I am satisfied that no other substantive issues arise.

8.2. The principle of the development

- 8.2.1. The proposal as submitted is for the demolition of the existing garage building with the stated area of any demolition is 107.45m² and in the location of the current garage the construction of a new two storey extension, comprising of an independent family residence to the existing dwelling and the gross floor area of the proposed works is stated as 386.60m². The project description document which accompanied the planning application indicates that the project intent is to accommodate an extension to the existing house that serves as an independent wing to the main house, providing accommodation for the applicant's son and his family.
- 8.2.2. It is initially important to consider given the scale of the of the proposed development and the description of development as an extension to an existing dwellinghouse whether it can be considered as anything other than an independent dwelling, notwithstanding the proposed "lobby" connection and given the site's zoning are the overall objectives and provisions of the plan complied with.

- 8.2.3. The site is zoned Groody Valley Wedge on map 3: Limerick City and Suburbs (in Limerick), including Mungret and Annacotty - Zoning Map with the objective: To preserve and protect the Groody Valley from development and the purpose of the Groody Valley Wedge is to maintain the area's importance in preventing the encroachment of the built-up area of Limerick City and to retain its important role as a wildlife corridor and a flood management zone.
- 8.2.4. Residential development is generally not permitted within this zoning and in relation to generally not permitted use it is one that would be incompatible with the zoning policies or objectives for the area, would conflict with the permitted/existing uses and would be contrary to the proper planning and sustainable development of the area and that non-conforming uses are uses which do not conform to the zoning objective for the area in which they are located. There is provision for considering legally established, extensions or improvements to these uses on their merits on a case-by case basis, where they do not adversely affect the amenities of properties in the vicinity and are not prejudicial to proper planning and sustainable development.
- 8.2.5. In relation to the zoning the overriding objective therefore is to preserve and protect the Groody Valley from development and the purpose of the Groody Valley Wedge is to maintain the area's importance in preventing the encroachment of the built-up area of Limerick City and to retain its important role as a wildlife corridor and a flood management zone. Given the scale of the development, it is difficult to consider that the development could not be considered as other than an independent dwelling rather than a sub-division of a dwelling and a major encroachment of the built-up area into the Groody Valley Wedge.
- 8.3. Reason no.1 of Planning Authority's Decision.
- 8.3.1. The first reason refers to Objective HO O11 Subdivision of Dwelling to Accommodate Dependent Relative of the Limerick Development Plan (2022-2028).
- 8.3.2. Section 4.2.13 of the plan and objective HO O11 which relates to the subdivision of a dwelling to accommodate a dependent relative would also in principle for consideration of the proposal subject to assessment based on the criteria as outlined in HO O11.
- 8.3.3. The first reason specifically refers to considering that the proposed development is excessive in size, not subservient to the main dwelling, and there is no justification

that the proposals falls within the criteria where such development is considered. In the assessment the Planning Authority considered the proposal is a separate and independent house or that the proposed development cannot be classified as being subservient to the main dwelling given its scale and it is unclear how the applicants' son and his family cannot be accommodated within the existing dwelling.

- 8.3.4. In the grounds of appeal, it is contended that the proposed development complies with Objective HO O11 which is designed to support the accommodation of dependent family members within the curtilage of the existing dwelling and proposal is to provide self-contained accommodation for the applicant's son, partner and children. The proposed development is smaller and subservient to the existing dwelling is 386m² in area compared to the existing dwelling which is 783m² in area. The extension forms part of the main dwelling and can be physically connected, is not a second dwelling or detached and can be conditioned in this regard and the area of the proposed extension is already a developed area.
- 8.3.5. Objective HO O11 outlines criteria in assessing development considered as a subdivision of a dwelling to accommodate dependent relative. Initially it is noted that consideration of this form of development normally would be where an elderly relative would be accommodated by an extension to an existing dwelling but circumstances would be considered on the requirements of each individual family unit which will vary and will also be site specific. In this case the parent is retaining the main dwelling and the extension is to accommodate a child and his family. I would accept that if the site was being subdivided and an independent dwelling was sought the current zoning would preclude this but this proposal is not an independent stand alone site and the nature of the design as submitted and the overall layout would militate against being considered as a totally independent dwelling.
- 8.3.6. The criteria as outlined in Objective HO O11 which are relevant to this proposal are;
- Accommodation by way of extension shall be attached to the main dwelling;
In relation to the proposal under appeal the extension as described is proposed to be attached to the main dwelling.
 - There shall be an internal connecting door with the main residence;

The submitted drawings do provide for physical connection via a lobby area which provides access to the extension and the existing dwelling.

- The extension shall be subservient to the main dwelling;

In terms of floor area, the proposed extension in floor area is subservient to the existing main dwelling being 386m² in area compared to the existing dwelling which is 783m². It is large in floor area and designed to function as an independent dwelling unit. There is no guidance which limits the area of the unit or which member of a family occupies the larger unit but given its scale however it is difficult to regard the proposal as anything other than an independent dwelling rather than solely subservient to the main dwelling.

- On vacancy of the unit, the accommodation shall be integrated with the main dwelling. No such unit shall be used as rental accommodation. There will be a presumption against proposals for detached independent units within the curtilage of a dwelling, regardless of urban or rural location. Proposals must accord with planning considerations such as residential amenity, environmental and public health standards and traffic safety.

There is nothing to suggest that the proposed extension cannot be integrated fully into the main dwelling and there is a proposed physical connection. The use of the unit can be conditioned to preclude rental. There is nothing to indicate issues in relation to traffic and the proposal can be connected to existing services and there is no indication that this could give rise to any concern. Issues relating to environmental concern are considered under another reason for refusal.

- 8.3.7. While the criteria of HO 011 appear to be generally satisfied, the context of the zoning and the overall objectives and purpose of the zoning needs to be considered and an independent dwelling would not be generally permitted within the overall objectives of these provisions of the plan.

8.4. Flood Risk

- 8.4.1. The third reason for refusal refers specifically to the issue of flood risk and that the proposed development, by means of the highly vulnerable residential use proposed, the location of the site within Flood Zone A and the absence of a Flood Risk

Assessment to justify the proposal, is considered to be contrary to Policy CAF P5 of the Limerick Development Plan 2022-2028.

- 8.4.2. The issue of flooding is related also to the second reason for refusal given the proximity of the site and the proposed development to an existing mill race on the boundary of the site and also a pond associated with the mill race which is partially within the appeal site and potential hydrological connection to the Groody River from this waterbody which downstream of the site flows into the River Shannon.
- 8.4.3. The grounds of appeal contend that Objective CAF P5 reflects national guidance development should occur outside of Flood Zone A but recognises the importance of considering site specific and historic performance in clarifying mapped designations. Details are outlined in relation to the relative height of the dwelling 15.7m O.D. and the Groody River and that it is over 2.7m O.D. above the edge of the river. It is also contended that the millrace is controlled at a level of 15.02m O.D. by sluices and discharges to a quarry at 12.39m O.D. providing a pressure relief mechanism during a flood and has a controlled overflow mechanism not in place for natural or unmanaged flood dynamics. It is also contended that there is no known record of flooding and the dwelling on the site was granted planning permission in 2008 and that the appellant is prepared to undertake a Flood Risk Assessment and implement mitigation measures if required.
- 8.4.4. National Guidance as stated in the Flood Management Guidelines, 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities November 2009' outlines guidance in relation to assessment of development in relation to flood risk, with the objectives to avoid inappropriate development in areas at risk of flooding; avoid new developments increasing flood risk elsewhere and ensure effective management of residual risks for development permitted in floodplains.
- 8.4.5. The guidance outlines that a staged approach should be adopted to flood risk with the application of stages of appraisal and assessment to appraise the adequacy of existing information and to scope the extent of the risk of flooding and a detailed flood risk assessment to assess flood risk issues in sufficient detail and to provide a quantitative appraisal of potential flood risk to a proposed or existing development of its potential impact on flood risk elsewhere and of the effectiveness of any proposed mitigation measures.

- 8.4.6. Three types or levels of flood zones defined for the purposes of the Guidelines: Flood Zone A where the probability of flooding from rivers and the sea is highest (greater than 1% or 1 in 100 for river flooding or 0.5% or 1 in 200 for coastal flooding); Flood Zone B where the probability of flooding from rivers and the sea is moderate (between 0.1% or 1 in 1000 and 1% or 1 in 100 for river flooding and between 0.1% or 1 in 1000 year and 0.5% or 1 in 200 for coastal flooding); and Flood Zone C where the probability of flooding from rivers and the sea is low (less than 0.1% or 1 in 1000 for both river and coastal flooding) and a sequential approach is outlined in relation to assessment of proposed development within each flood zone.
- 8.4.7. Chapter 5 of the guidance outlines stages of development management and identification of flood risk and where necessary the application of the justification test and that permission should be refused where flood issues have not been, or cannot be, addressed successfully and where the presence of unacceptable residual flood risks remain for the development, its occupants and adjoining property.
- 8.4.8. The guidance however in section 5.28 refers to assessment of minor proposals in areas of flood risk indicating that applications for minor development, such as small extensions to houses, and most changes of use of existing buildings and or extensions and additions to existing commercial and industrial enterprises, are unlikely to raise significant flooding issues, unless they obstruct important flow paths, introduce a significant additional number of people into flood risk areas or entail the storage of hazardous substances. Since such applications concern existing buildings, the sequential approach cannot be used to locate them in lower-risk areas and the Justification Test will not apply. However, a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities. These proposals should follow best practice in the management of health and safety for users and residents of the proposal.
- 8.4.9. In relation to the current site, I have reviewed the OPW documentation in relation to flooding and flood maps. The map SHANNON CFRAM STUDY, Limerick City and Environs Fluvial Extent Map indicates that the site to the north, east and south adjoins a zone which is predominantly a Flood Zone A, where a 10% AEP flood

signifies a flood event with a 10% chance of occurring or being exceeded in any given year, making it equivalent to a "1 in 10 year flood". The remainder of these boundaries are within a Flood Zone B equating to a 1% AEP or a 1 in 100 year flood. These zones equate to the mill race and pond area. The west/southwestern boundary which adjoins the Groody River is predominantly a Flood Zone A, with a 10% AEP. The predominant area of the site and the current location of the dwelling is not within a flood zone. OPW mapping would indicate a record of flooding in 1999 further to the southeast downstream of the site on the Groody River and is referenced in the Limerick Flood Study Draft Report No. 3 and the report would indicate that the flooding arose from another watercourse the Monoclino Stream entering the Groody River. There is no record as contended by the appellant of flooding on or immediate to the site.

- 8.4.10. In mitigation in considering the current proposal it is accepted that a section of the footprint of the proposed development will be on lands currently occupied by the footprint of the existing garage. I would also note that the roads/engineering report although not specifically addressing flooding did not raise any objections and specified conditions for the management of surface water generated.
- 8.4.11. Specifically, in relation to Objective CAF O20 in relation to Flood Risk Assessments it is stated that it is an objective 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 and a detailed Site-Specific FRA should quantify the risks, the effects of selected mitigation and the management of any residual risks.
- 8.4.12. The objective does not preclude permitting development but applies a precautionary approach where potential risk is identified in the assessment of flood risk for minor developments and measures to address or ameliorate potential increased flooding are outlined. The objective reflects national guidance as set out in the section 5.28 in relation to assessment of minor proposals in areas of flood risk indicating that applications for minor development a commensurate assessment of the risks of flooding should accompany such applications to demonstrate that they would not

have adverse impacts or impede access to a watercourse, floodplain or flood protection and management facilities.

- 8.4.13. This approach has not been followed in the current proposal and no commensurate assessment of risk has been submitted notwithstanding the proximity of the site to a flood risk zone. A FRA as set out in national and CDP guidance would be appropriate in relation to this site given the presence and proximity of watercourses/waterbodies. It is also important to consider potential impacts which may or may not arise downstream of the site arising from the proposed development to eliminate any potential impact.
- 8.4.14. I note in the grounds of appeal that the appellant would carry out a FRA if was conditioned in a grant of permission but applying a precautionary principle it would be prudent that a FRA in advance of any permission is necessary which should clearly demonstrate the potential risk of a flood risk if any, in particular given the likelihood of increasing storm events and should also outline and demonstrate mitigation measures to address potential identified risks and I do not consider that applying such a condition is prudent given the relative complicated surface hydrology surrounding the site.

8.5. Reason No.2 for refusal.

- 8.5.1. In relation to the second reason for refusal refers to the proposed development, given its proximity to Mill Race watercourse, does not comply Objective EH O18 Riparian Buffers in respect of the insufficient buffer distance to this water course. Therefore, and having regard to the hydrological connection of the watercourse to the Lower River Shannon SAC, and based on the details provided, the Planning Authority is not satisfied that the proposed development would not have an impact on the integrity of the Natura 2000 site and the proposal would materially contravene Objective EH O1 of the Limerick Development Plan which specifies that a 20 metre riparian buffer is kept free of development from watercourses and the siting of the proposed development which is circa 3 metres from the watercourse and does not align with this objective.
- 8.5.2. In response to this reason for refusal it is contended that objective EH O18 refers to Riparian Buffers which has a primary aim to avoid disturbance of sensitive ecological areas, protect water quality and reduce encroachment into area of natural flood

dynamics and it is contended that the millrace is not a natural or ecologically functioning watercourse which is controlled by numerous sluice gates and operates as a controlled culvert. It is also contended that the dwelling and extension at 15.7 O.D. are well above the Millrace channel at 15.02 O.D. and does not intrude on soft ground and the closest point of construction 1.5 to 2 metres from the bank; there is no works proposed on natural habitat and will be on existing disturbed developed ground and a series of mitigation measures are proposed to enhance biodiversity and the use of SuDS measures.

- 8.5.3. It is not I consider in dispute that there is a hydrological connection between the Groody River and waterbodies on and adjoining the appeal and the Lower River Shannon SAC and as already stated the Groody River and its sub catchment is not within the SAC.
- 8.5.4. It is also not in dispute that the existing dwelling and the garage are within the 20 metre riparian buffer and that the objective of EH O18 is to maintain riverbank vegetation along watercourses and ensure protection of a 20 metre riparian buffer zone on greenfield sites and that sites are maintained free from development which clearly does not apply in relation to the appeal site which is not a greenfield site. The application of objective EH O18 is not I consider appropriate to the proposed development.
- 8.6. The reason for refusal however also refers to having regard to the hydrological connection of the watercourse to the Lower River Shannon SAC, and based on the details provided, the Planning Authority is not satisfied that the proposed development would not have an impact on the integrity of the Natura 2000 site. Therefore, the proposal would materially contravene Objective EH O1 – Designated Sites and Habitats Directive of the Limerick Development Plan and (2022-2028) which I shall address also under Appropriate Assessment.
- 8.6.1. The site as already indicated adjoins watercourse/waterbodies the Groody River and a mill race and a pond which appears to be hydrologically connect to the Groody River which in turn flows into the River Shannon.
- 8.6.2. The Lower River Shannon SAC site code 002165 is a large site covering primarily the River Shannon Estuary but also a number of watercourses and rivers which flow into the Estuary and the River Shannon. The Lower River Shannon SAC site code

002165 which consists of the freshwater stretches of the River Shannon catchment and the estuary of the river with a large number of qualifying interests in relation to species and habitats. The main threats to the site and current damaging activities as identified by the NPWS data include discharges into the river system from agricultural run-off and several sewage plants and activities which endanger species which area qualifying interests.

- 8.6.3. Mapping data in relation to the Groody River would indicate this river and its catchment are not within the SAC though it is part of the wider Lower Shannon Catchment.

9.0 AA Screening

- 9.1. I have considered the proposal for the demolition of the garage and the construction of two-storey extension, comprising of an independent family residence to the existing dwelling and all associated site works in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on an established residential site.
- 9.1.1. The grounds of appeal specifically in relation to Objective EH O1 in particular the hydrological connection of the watercourse to the Lower River Shannon SAC and that the proposed development would not have an impact on the integrity of the Natura 2000 site contends or makes a distinction between the millrace considering that it is not a natural or ecologically functioning watercourse and is controlled by numerous sluice gates and operates as a controlled culvert.
- 9.1.2. I would note in this regard that Natura 2000 sites include sites which are the result of human intervention such as canals and not purely features which have evolved from natural events.
- 9.1.3. Specifically in relation to the Lower River Shannon SAC Site Code 002165 it is a very large site which stretches along the Shannon valley from Killaloe in Co. Clare to Loop Head/ Kerry Head, a distance of some 120 km. The site encompasses saline areas including the Shannon, Feale, Mulkear and Fergus estuaries and the freshwater lower reaches of the River Shannon (between Killaloe and Limerick), the freshwater stretches of much of the Feale and Mulkear catchments and the marine area between Loop Head and Kerry Head. The diverse site includes a large number

of habitats and/or species listed on Annex I / II of the E.U. Habitats Directive including:

[1110] Sandbanks [1130] Estuaries [1140] Tidal Mudflats and Sandflats [1150] Coastal Lagoons* [1160] Large Shallow Inlets and Bays [1170] Reefs [1220] Perennial Vegetation of Stony Banks [1230] Vegetated Sea Cliffs [1310] Salicornia Mud [1330] Atlantic Salt Meadows [1410] Mediterranean Salt Meadows [3260] Floating River Vegetation [6410] Molinia Meadows [91E0] Alluvial Forests* [1029] Freshwater Pearl Mussel (*Margaritifera margaritifera*) [1095] Sea Lamprey (*Petromyzon marinus*) [1096] Brook Lamprey (*Lampetra planeri*) [1099] River Lamprey (*Lampetra fluviatilis*) [1106] Atlantic Salmon (*Salmo salar*) [1349] Bottle-nosed Dolphin (*Tursiops truncatus*) and [1355] Otter (*Lutra lutra*).

- 9.1.4. Based on an examination of mapping data the subject site is not located within site designated as a Natura 2000 site the Lower River Shannon SAC Site Code 002165. It has a hydrological connection to the Lower River Shannon SAC (site code 002165) arising from its proximity to the Groody River and a millrace which flows to the Groody River and which approximately 3 kilometres downstream flows into River Shannon.
- 9.1.5. In considering this issue the relative proximity to a watercourse or water body with a hydrological connection to a Natura 2000 site is not the sole issue to consider or the relative distance to a Natura 2000 site. In relation to any proposal the test for AA is not any effect but a significant effect which is any effect that may affect the Conservation Objectives of the features for which the site was designated, but excluding inconsequential effects. This includes direct, indirect, in-combination, short and long term effects. A likely significant effect therefore for the purposes of AA requires the effect to be considered significant, relevant to the conservation objective for the European Site, and that the possibility of the effects cannot reasonably be excluded and only after considering these matters, you would have regard to the application of the precautionary principle.
- 9.1.6. The onus is on the applicant for a development to demonstrate effects direct, indirect, in-combination, short and long term effects which are significant effects or otherwise and that the possibility of the effects can or cannot reasonably be excluded. This can only be addressed by an initial AA Screening given the identified

hydrological connection to determine whether that there will not be significant effects on the qualifying interests or whether Stage 2 AA is necessary.

- 9.1.7. Therefore although it is also contended in relation to the dwelling and extension that no works proposed on natural habitat and will be on existing disturbed developed ground and a series of mitigation measures are proposed to enhance biodiversity and the use of SuDS measures which would address potential runoff on the basis of the documentation submitted I consider it cannot be concluded with a competent level of certainty as to whether the proposal will have or not have a significant effect on a European Site without such mitigation and the precautionary principle would apply. An AA is therefore required.
- 9.2. The proposed development although it comprises in effect a development as outlined in section 2 in the Inspectors report adjoins watercourses and waterbodies with a hydrological connection to a Natura 2000 site. Having considered the nature, scale and location of the project and identified hydrological connection, I am satisfied that it cannot be eliminated from further assessment in relation to a potential conceivable risk to a European Site. The reason for this conclusion is a pathway to a European Site.
- 9.3. I conclude therefore on the basis of objective information, it cannot be concluded 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 and Appropriate Assessment is required.

10.0 Material Contravention

The stated second reason refers to; The proposed development, given its proximity to Mill Race watercourse, does not comply Objective EH O18 Riparian Buffers in respect of the insufficient buffer distance to this water course. Therefore, and having regard to the hydrological connection of the watercourse to the Lower River Shannon SAC, and based on the details provided, the Planning Authority is not satisfied that the proposed development would not have an impact on the integrity of the Natura 2000 site. Therefore, the proposal would materially contravene Objective EH O1 – Designated Sites and Habitats Directive of the Limerick Development Plan and (2022-2028).

- 10.1.1. . The application of objective EH O18 for reasons outlined is not I consider appropriate to the proposed development and is not specifically referred to as being materially contravened but the second reason also refers to that the proposed development would materially contravene Objective EH O1 of the current plan.
- 10.1.2. Objective EH O1 refers to Designated Sites and Habitats Directive and that *it is an objective of the Council to ensure that projects/plans likely to have significant effects on European Sites (either individually or in combination with other plans or projects) are subject to an appropriate assessment and will not be permitted under the Plan unless they comply with Article 6 of the Habitats Directive.*
- 10.1.3. Specifically in relation to the issue of material contravention of an objective stated in the CDP in considering this matter the Board have to consider whether the proposal as submitted is a material contravention with reference to the provisions as stated in sections 37(2)(a) and (b) of the Planning and Development Act 2000 as amended.
- 10.1.4. The initial issue to consider is whether Objective EH O1 is materially contravened.
- 10.1.5. Section 37(2)(b) of the Planning and Development Act 2000 as amended refers to where a planning authority has decided to refuse permission on the grounds that a proposed development materially contravenes the development plan, the Board may only grant permission in accordance with paragraph
- (a)where it considers that—
- (i) the proposed development is of strategic or national importance,
- (ii) there are conflicting objectives in the development plan or the objectives are not clearly stated, insofar as the proposed development is concerned, or
- (iii) permission for the proposed development should be granted having regard to regional spatial and economic strategy for the area, guidelines under section 28, policy directives under section 29, the statutory obligations of any local authority in the area, and any relevant policy of the Government, the Minister or any Minister of the Government, or
- (iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.
- 10.1.6. In relation to (i) the proposed development is not of strategic or national importance,

In relation to (ii) there are conflicting objectives in the development plan and there are objectives are not clearly stated for assessment of this development, insofar as the proposed development is concerned. It is noted that the planning authority in stating this objective are stating their statutory requirement to comply Article 6 of the Habitats Directive and An Coimisiún Pleanála are also required to comply with Article 6 of the Habitats Directive. Although there are many objectives which may allow consideration of the proposal it is subject to complying with Article 6 of the Habitats Directive which is a standalone objective.

(iii) Does not apply

(iv) permission for the proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan. Although noting that the current house was granted planning permission it predates the current development plan and there is nothing presented to consider that proposed development should be granted having regard to the pattern of development, and permissions granted, in the area since the making of the development plan.

11.0 Recommendation

11.1. I recommend that permission be refused.

12.0 Reasons and Considerations

1. Having regard to the site's zoning within an area defined as Groody Valley Wedge Zoning in the Limerick Development Plan 2022-2028 the objective of which it is to preserve and protect the Groody Valley from development with the purpose to maintain the area's importance in preventing the encroachment of the built up area of Limerick City and within which residential development is normally not permitted. The provisions as stated are considered to be reasonable. It is therefore considered that the proposed development given the overall scale of the development could not be considered as other than an independent dwelling rather than a sub-division of a dwelling; the proposed development would therefore be contrary to the

zoning's objective and purpose as stated and would therefore be contrary to the proper planning and development of the area.

2. Having regard to the site's immediate proximity to watercourses and waterbodies which have a hydrological connection to a Natura 2000 site the Lower River Shannon SAC Site Code 002165 and the absence of a screening assessment in relation to the identification or potential risks and effects and elimination through assessment in relation to a potential conceivable risk to the European Site on the basis of objective information, an Coimisiún Pleanála cannot conclude that the proposed development would not have a likely significant effect would not have an impact on the integrity on any European Site either alone or in combination with other plans or projects. The proposal would therefore materially contravene Objective EH O1 – Designated Sites and Habitats Directive of the Limerick Development Plan 2022-2028 which has as an objective to ensure that projects/plans likely to have significant effects on European Sites are subject to an appropriate assessment and which an Coimisiún Pleanála considers to be reasonable. The proposal would therefore be contrary to the proper planning and sustainable development of the area.
3. Regard is had to the site's immediate proximity to watercourses and waterbodies; to the location of the site within and adjacent to Flood Zone A and Flood Zone B; Policy CAF P5 and Objective CAF O20 in relation to Flood Risk Assessments as stated in the Limerick Development Plan 2022-2028 in relation to Managing Flood Risk and also to the provisions as stated in Flood Management Guidelines, 'The Planning System and Flood Risk Management, Guidelines for Planning Authorities November 2009' which outlines guidance in relation to assessment of development in relation to flood risk to ensure effective management of residual risks for development permitted in area of flood risk through the identification of flood risk and which are considered to be reasonable.

The 2009 guidance outlines in relation to the assessment of minor proposals in areas of flood risk include a commensurate assessment of the risks of flooding which should accompany such applications to demonstrate that they would not have adverse impacts or impede access to a watercourse,

floodplain or flood protection and management facilities. No commensurate assessment of risk has been submitted notwithstanding the proximity of the site to a flood risk zone.

In the absence of a robust commensurate assessment of risk an Coimisiún Pleanála cannot conclude that the proposed development would not have an impact in relation to flood risk downstream of the site and would be contrary to the stated provisions of the 2009 guidance and development plan provisions which are considered to be reasonable in relation to the objective to avoid inappropriate development in areas at risk of flooding; avoiding new developments increasing flood risk elsewhere and ensuring an effective management of residual risks for development permitted in floodplains. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Derek Daly
Planning Inspector

26th September 2025

Form 1 - EIA Pre-Screening

Case Reference	323097-25
Proposed Development Summary	Construction of two-storey extension, comprising of an independent family residence to the existing dwelling, the demolition of an existing garage and all associated site works.
Development Address	Mill Race, Golf Links Road, Ballysimon, Co. Limerick.
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	<input type="checkbox"/> X Yes , it is a 'Project'. Proceed to Q2.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
<input type="checkbox"/> X Yes , it is a Class specified in Part 1.	
<input type="checkbox"/> No,	
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 road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?	
x 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. No Screening required.	
No , the proposed development is of a Class and meets/exceeds the threshold.	
Yes , the proposed development is of a Class but is sub-threshold. Preliminary examination required. (Form 2)	

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 type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: Derek Daly Date: 26th September 2025

Form 2 - EIA Preliminary Examination

Case Reference	AP323097-25
Proposed Development Summary	Construction of two-storey extension, comprising of an independent family residence to the existing dwelling, the demolition of an existing garage and all associated site works.
Development Address	Mill Race, Golf Links Road, Ballysimon, Co. Limerick.
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (<i>The development has an increased footprint, on a site where there is an existing dwelling which has a grant of planning permission. The development, by virtue of its type, does not pose a risk of major accident and/or disaster, or is vulnerable to climate change. It presents no risks to human health.</i>
Location of development (<i>The development is situated in an area which is an urban area with an established residential development in which existing services are available. The development is located in proximity to sensitive natural habitats, designated sites and landscapes of identified significance in the County Development Plan</i>
Types and characteristics of potential impacts	<i>Having regard to the nature of the proposed development and the availability of piped services there is no potential for significant effects on the environmental factors listed in section 171A of the Act.</i>
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
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.	No
There is a real likelihood of significant effects on the environment.	No

Inspector: Derek Daly Date: 26th September 2025