



**Development**

Retention of extension, windows, permission for boundary wall, waste water treatment system, and associated site works.

**Location**

Kilcullen,, Ballyneety., Co. Limerick.

**Planning Authority**

Limerick City and County Council

**Planning Authority Reg. Ref.**

25140

**Applicant(s)**

Gearoid Hickey

**Type of Application**

Retention permission and permission

**Planning Authority Decision**

**Type of Appeal**

Third Party

**Appellant(s)**

Darren O'Donoghue

**Observer(s)**

None

**Date of Site Inspection**

November 2025

**Inspector**

Bernadette Quinn

## **1.0 Site Location and Description**

1.1. The site with a stated area of 0.50ha is located on the northern side of local road L1141, approximately 2km east of Ballyneety village. The site contains an existing storey and a half dwelling and vehicular entrance. The front boundary contains brick pillars and a wooden fence. There are sheds to the rear of the property and a field.

## **2.0 Proposed Development**

2.1. Retention permission is sought for a single storey rear extension measuring 26.25 sq.m. with a lean to roof which has a ridge height of 2.789m and containing a kitchen/dining area and bathroom. Retention permission is also sought for a bay window projection on the western side elevation measuring 2.3sq.m. Permission is sought for a new front boundary wall, new wastewater treatment system and to remove existing pillars at the entrance and all associated site works.

2.2. The dwelling and extension to be retained has a total floor area of 90 sq.m.

## **3.0 Planning Authority Decision**

### **3.1. Decision**

On 31/07/2025 Limerick City and County Council (LCCC) issued notification of the decision to grant permission subject to 9 conditions.

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

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

The Planning Officer's report dated 23/06/2025 can be summarised as follows:

- The extension is considered generally acceptable and there are no concerns in relation to surface water issues raised in the third-party objection given the distance of the dwelling from the boundary. All surface water is required to be disposed of within the site boundary.
- The replacement of the existing timber fence roadside boundary with a sod and stone wall of 1m in height is considered acceptable.

- The sewer pipeline for the wastewater treatment system is proposed to traverse under an existing shed/store and ultimately connect into the dwelling; this is not acceptable.
- The septic tank and percolation area are remote from the dwelling and it is unclear whether or not the pipework connecting the dwelling to the septic tank traverses third party lands, clarification is required regarding lands within the applicant's ownership and consent for works outside the land holding.
- The existing shed/store is shown on the site layout plan as well as on general drawings, contrary to inaccuracies noted in the third-party submission.

Following a request for further information, the planner's report dated 30/07/2025 can be summarised as follows:

- In relation to land in the applicant's ownership, the applicant notes a discrepancy between what is shown on the folio map and what is actually on the ground having regard to the neighbouring garage/shed. From the information submitted, particularly the photographic evidence which corresponds to locations on the site layout plan, it is considered that ownership is a civil matter. The response is considered acceptable.
- The applicant has revised the location of the pipework related to the wastewater treatment system where it is now shown outside the existing shed to the rear extension. The environment section raise no objection subject to conditions.
- A grant of retention permission is recommended.

### 3.2.2. Other Technical Reports

Environment: No objection subject to conditions.

Roads: No objection subject to conditions relating to roads and surface and roof water.

### 3.2.3. Conditions

Condition no. 2 and no. 3 relate to decommissioning of the existing septic tank and its replacement with a new treatment system and compliance with EPA Code of Practice for Wastewater Treatment Systems.

Condition no. 4, no. 5 and no. 6 relate to works to the proposed front boundary.

Condition no. 7 and no. 8 relate to surface water run off.

### **3.3. Prescribed Bodies**

Uisce Eireann: No objection raised.

### **3.4. Third Party Observations**

One submission received, the issues raised are similar to those raised in the third party appeal.

## **4.0 Planning History**

23/170: Application for retention of extension and permission for new front boundary wall and wastewater treatment system withdrawn.

21/1617: Application for retention of extension, new front boundary wall and wastewater treatment system withdrawn.

## **5.0 Policy Context**

### **5.1. Limerick Development Plan 2022-2028**

The following sections are considered relevant:

Section 8.5.4 and Objective IN O11 relate to Private Waste Water Treatment Systems.

Section 11.4.4.1.2 relates to Rear/Side Extensions and includes the following:

Ground floor rear/side extensions will be considered in terms of their length, height, proximity to mutual boundaries and quantum of usable rear private open space remaining. First floor rear/side extensions will be considered on their merits and will only be permitted where the Planning Authority is satisfied that there will be no significant negative impacts on surrounding residential or visual amenities. In determining applications for first floor extensions, the following will be considered:

- Degree of overshadowing, overbearing and overlooking - along with proximity, height and length along mutual boundaries;
- Size and usability of the remaining rear private open space;
- Degree of setback from mutual side boundaries. No part of the extension shall encroach or overhang adjoining third party properties.

## 5.2. **Natural Heritage Designations**

The Lower River Shannon SAC (Site Code: 002165) is located approximately 5.3km northeast of the site.

## 5.3. **EIA Screening**

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended (or Part V of the 1994 Roads Regulations). No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1 of report.

# 6.0 **The Appeal**

## 6.1. **Grounds of Appeal**

One no. third party appeal has been received from Gearoid Hickey. The grounds of appeal can be summarised as follows:

- Details relating to a previous owner of the appeal site are outlined and that the field at the rear of the appeal site cannot be accessed without trespassing the third party appellants lands.
- The existing septic tank serving the appeal site is located in a field to the rear and there is no right of way in place for access to the field from the appeal site. No percolation test was carried out in relation to the existing septic tank.
- Works were carried out without planning permission, including a septic tank, extension and front boundary wall and pillars.

- In order for the first party to carry out the works relating to the grant of permission, comprising removal of the old septic tank and installation of new treatment system, this will result in the first party trespassing over the third party's land.
- The location of the soak pit to collect surface water is queried and in order to construct a soak pit in the field it will be necessary for the first party to trespass the third party's land.
- A boundary wall and pillars that are referenced were put up without planning permission. All other houses on the road have their walls set back about 3 metres from the road unlike the appeal site.
- There are concerns that the entrance will give rise to a traffic hazard as a result of vehicles reversing from the property on to the road and that parking of vehicles in front of the property results in a traffic hazard.
- An old small listed building or an old pigsty was located on the property but is no longer there, it is queried what has happened to this building.
- A further information request relating to planning application reference 23/170 on the appeal site is attached which requests further information in relation to land ownership and inconsistencies in drawings.
- An observation submitted by the third party in relation to planning application 25/140 on the appeal site is attached.

## 6.2. Applicant Response

A response received on behalf of the applicant can be summarised as follows:

- The applicant owns all the lands where the existing and proposed wastewater system is located and there is access to this area of land on ground owned by the applicant. A site layout plan with folios of lands in the applicant's ownership overlaid is attached. Land in folio LK57439F is owned by the applicant's but has not yet been registered in their name.
- The front boundary is to be set back in line with the original front boundary wall of the house and this will improve sightlines.

- The scale of the extension is minor and below the exempted development floor area.

### 6.3. Planning Authority Response

Response received states no further comments to make outside of the assessment contained in the Planner's reports.

### 6.4. Further Responses

The third party was invited to comment on the first party response to the appeal. The further response can be summarised as follows:

- Site Layout plans submitted with previous applications show a Right of Way over the third party appellants lands to lands to the rear where the wastewater treatment system is proposed. There is no such right of way in existence and the site boundary is different in previous applications. A copy of these site layout plans and letters of objection are attached.
- It is clear from Folio Map 13660F submitted by the applicant that there is no way of accessing the rear field from the front plot, the lands to the front, which contain the house, taper to a single point where it abuts the rear field and there is no way to lay a sewer and no vehicular access between the two plots.
- No evidence has been submitted in relation to ownership of land in Folio LK 57439F.
- There is unauthorised development on the site and the PA has an enforcement file in relation to the site.
- There are concerns that a grant of permission would not lead to a fair outcome in relation to land ownership issues.
- The applicant is not the owner; the land is registered in the applicant's wife's name and no consent to making the application has been included.
- Observations made to the PA in relation to previous planning applications are attached which outline concerns in relation to decommissioning of the existing septic tank and concerns in relation to the absence of details relating to site

suitability for the new treatment system and land ownership, water supply and surface water.

## 7.0 Assessment

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

- Land Ownership
- Traffic Safety
- Surface Water Drainage
- Other Matters

### 7.2. Land Ownership

7.2.1. Concerns are raised which outlined that the first party does not have a right of way to access the field to the rear where the proposed wastewater treatment system is to be located and that access to this field results in trespassing over the third party's lands. Concerns are also raised that no letter of consent has been submitted by the land owner to the making of the planning application.

7.2.2. Having assessed the proposed development I note that the first party has outlined details of ownership of the area of land where the proposed wastewater treatment system will be located and of the area of the proposed pipes to connect from the wastewater treatment system to the dwelling. A site layout plan submitted with the response to the appeal indicates that the works can be carried out within the applicant's land holding. I also note that the existing septic tank to serve the existing dwelling on the appeal site is stated to be located within the field and that this existing septic tank is to be decommissioned and replaced with the proposed wastewater treatment system.

7.2.3. Concerns are also raised in the appeal that the applicant Darren O'Donoghue is not the owner of the land relating to the planning application but that it is his wife Kathleen Ryan who owns the lands in question. I note that the applicant indicated on

the planning application form and in the further information response that he is the owner of the appeal site and the PA did not raise any concerns in this regard. A folio submitted in the response to the third party appeal indicates that the applicant's wife, Kathleen Ryan, is the owner of the appeal site and a cover letter attached states that the property is owned by the applicant and his wife.

- 7.2.4. I note the provisions of Article 22(2)(g) of the Planning and Development Regulations 2001 (as amended) which states that where the applicant for permission is not the legal owner of the land or structure concerned, the application shall be accompanied by the written consent of the owner to make the application. In reviewing the planning application details, it appears that no such letter of consent was provided by the relevant landowners in this case. The Development Management Guidelines 2007 addresses the matter of questions of title and outlines that in circumstances where it is clear from the response that the applicant does not have sufficient legal interest, that permission should be refused on that basis.
- 7.2.5. I am satisfied that there is sufficient information to demonstrate that the application site is within a family landholding and in noting the provisions of the Development Management Guidelines for Planning Authorities (2007) I do not recommend that permission should be refused on this basis.
- 7.2.6. I also note that matters relating to land ownership and rights of way are a matter between the party's concerned and are not a matter for the Coimisiún. Section 5.13 of the Development Management Guidelines for Planning Authorities (June 2007), states the planning system is not designed as a mechanism for resolving disputes about title to land or premises and these are ultimately matters for resolution in the Courts. Furthermore, Section 34(13) of the Planning Act (as amended) states that a person is not entitled solely by reason of a permission to carry out any development. As such, should the Coimisiún be minded to grant permission for the development, the onus is on the applicant to ensure sufficient legal interest exists to implement the permission.
- 7.2.7. Having regard to the above I am satisfied that the applicant has sufficiently addressed the matter of land ownership and I do not consider the proposed development should be refused on these grounds.

### 7.3. **Surface Water Drainage**

7.3.1. The appeal raises concerns in relation to surface water drainage including querying the location of a soak pit. I note that the site layout plan does not indicate the location of existing or proposed soak pits. A report from the local authority on the file relating to roads and surface water raises no concerns in relation to surface water and recommends the inclusion of conditions relating to management of surface water. I am satisfied that the proposal is acceptable with regard to surface water. If the Coimisiún decides to grant permission I consider it appropriate that conditions be attached requiring the management of surface water within the site.

#### **7.4. Traffic Safety**

7.4.1. It is proposed to remove an existing wood fence and entrance pillars at the front boundary of the property and replace with a new 1m high sod and stone wall with native planting. The third party raises concerns in relation to traffic hazard as a result of vehicular movements from the site on to the public road. I note that the PA Roads Section raised no concerns and I note that there is an existing vehicular entrance serving the property. Having reviewed the drawings submitted I note that other than removal of pillars no alterations are proposed to the vehicular entrance. As such I do not consider the proposal will give rise to any additional traffic considerations beyond what currently exist. I consider the proposed 1m high sod and stone wall boundary is acceptable. I note that the PA included a condition relating to reinstatement of the area between the road edge and the realigned front boundary to prevent any road issues. If the Coimisiún decides to grant permission I recommend that this condition be attached.

7.4.2. In relation to concerns raised by the third party in relation to parking of vehicles on the road, I consider this is a matter for the local authority and is not a matter for consideration in the assessment of the appeal.

#### **7.5. Other Matters**

7.5.1. Concerns are raised by the third party that no percolation test was carried out in relation to the existing septic tank and that works were carried out without planning permission. I consider matters relating to planning enforcement are a matter for the PA and not for consideration in this appeal. I also note that a Site Suitability Assessment has been carried out in relation to the proposed wastewater treatment

system and that the results indicate that the site is suitable for treatment of wastewater with the proposed secondary treatment system and soil polishing filter.

7.5.2. The third party queries what has happened to an old small listed building or pigsty which was located on the property but is no longer there. It is unclear from the appeal where this building was located and there is no reference to this building in the planning application drawings. I note that the Development Plan does not include any protected structures on the appeal site and there are no structures included in the Record of Monuments and Places or the National Inventory of Architectural Heritage at this location. I am therefore satisfied that this matter is not relevant to the assessment of the appeal.

## 8.0 Water Framework Directive Assessment Screening

8.1. The subject site is located approx. 350m west of the nearest water body comprising the Groody River and 400m east of the Whitehall River. The proposed development comprises the retention of an extension and construction of a new boundary wall, wastewater treatment system and amendments to existing entrance as outlined in section 2.1 of this report.

8.2. No water deterioration concerns were raised in the planning appeal. I have assessed the proposed development and 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.

8.3. The reason for this conclusion is as follows:

- The scale of development and the nature of works
- The location-distance from nearest Water bodies and lack of hydrological connections

8.4. 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.

## **9.0 AA Screening**

### **9.1. Screening the need for Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive**

I have considered the project in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. The subject site is located approximately 5.3km from the Lower River Shannon SAC (Site Code: 002165). Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any effect on a European site. The reason for this conclusion is as follows:

- The scale and nature of the proposed development.
- Having regard to the absence of any hydrological connection to any European site.
- To the distance from the nearest European sites regarding any other potential ecological pathways and intervening lands.
- To the screening determination of the PA.

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. Likely significant effects are excluded and therefore AA, under Section 177V of the Act, is not required.

## **10.0 Recommendation**

I recommend that planning permission and retention permission should be granted, subject to conditions.

## 11.0 Reasons and Considerations

Having regard to the design, nature and scale of the development to be retained and the proposed development, to the established residential use of the site and the existing pattern of development in the area, and to the provisions of the Limerick Development Plan 2022-2028, it is considered that, subject to compliance with the conditions set out below, the development would not seriously injure the residential amenities of the area or of property in the vicinity and would be acceptable with regard to traffic safety and wastewater treatment. The development to be retained and 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 carried out, completed and retained in accordance with the plans and particulars lodged with the application, 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 interests of clarity.

2. Site development and building works shall be carried out only between the hours of 0800 to 1900 Mondays to Fridays inclusive, between 0800 to 1400 hours on Saturdays and not at all on Sundays and public holidays. Deviation from these times will only be allowed in exceptional circumstances where prior written approval has been received from the planning authority.

Reason: In order to safeguard the residential amenities of property in the vicinity.

3. 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

4.
  - (a) All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.
  - (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage.
  - (c) If there is any realignment of the front boundary, the area of ground between the road edge and the realigned front boundary shall be reinstated to prevent any road safety issues occurring. The area between the new boundary and the road edge to be excavated backfilled with 200mm of clean stone, 150mm of compacted CI 804 or similar granular material, and seal. Full details to be agreed with Limerick City and County Council prior to commencement of development. Any damage to the public road shall be repaired at the developer's expense.

Reason: In the interest of traffic safety and to prevent flooding or pollution.

5.
  - (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 01<sup>st</sup> May 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 ≤ 10)" – Environmental Protection Agency, 2021.
  - (b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter 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 ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the installation of the wastewater treatment system, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ 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

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.

---

Bernadette Quinn

Planning Inspector

08<sup>th</sup> December 2025

## Form 1 - EIA Pre-Screening

<b>Case Reference</b>	ACP-323505-25
<b>Proposed Development Summary</b>	Retention of extension and windows, permission for boundary wall, waste water treatment system, and associated site works.
<b>Development Address</b>	Kilcullen,, Ballyneety., 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>	State the Class here
<input checked="" 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 road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input checked="" type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road	

<p>development under Article 8 of the Roads Regulations, 1994.</p> <p><b>No Screening required.</b></p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p><b>EIA is Mandatory. No Screening Required</b></p>	<p><b>State the Class and state the relevant threshold</b></p>
<p><input type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p><b>Preliminary examination required. (Form 2)</b></p> <p><b>OR</b></p> <p><b>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</b></p>	<p><b>State the Class and state the relevant threshold</b></p>

<p><b>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)?</b></p>	
<p><b>Yes</b> <input type="checkbox"/></p>	
<p><b>No</b> <input checked="" type="checkbox"/></p>	<p><b>Pre-screening determination conclusion remains as above (Q1 to Q3)</b></p>

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