



An
Coimisiún
Pleanála

Inspector's Report

PL-500236-LK-25

Development	Construction of dwelling, wastewater treatment system and associated site works
Location	Dually, Newcastle West, Co. Limerick
Planning Authority	Limerick City and County Council
Planning Authority Reg. Ref.	2560829
Applicant(s)	Paul Logue
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Paul Logue
Observer(s)	None
Date of Site Inspection	31st December 2025
Inspector	Clare Clancy

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1.0 Site Location and Description

- 1.1. The appeal site is located in the townland of Dually, Co. Limerick approx. 2.5 km to the northwest of Newcastle West along the L-7077 local road. It comprises of farmlands with a derelict farm structure in situ.
- 1.2. The ground levels within the site are generally consistent with that of the adjoining public road to the south. There is an open drainage ditch located along the northern boundary of the site that was holding water at time of site inspection. Extensive rushes growth was evident throughout the site and grounds conditions wet and soft underfoot.
- 1.3. The boundaries of the site are defined by a post and rail fence along the western boundary and mature trees and hedgerow along the northern boundary. The roadside boundary partially comprises of a mature hedgerow to the west of the proposed access, while a substantial part of the hedgerow boundary to the southeast was removed and replaced by recently planted laurel hedging that is setback from further from the road. The eastern boundary of the site is undefined but is adjoined by farmland.
- 1.4. The site is located in a rural area with one-off housing prevalent along the local road leading to the site. The Limerick Greenway is located at the rear of the site with public access to same via an access track that adjoins the western boundary of the appeal site. The Dooally River is located approx. 208 m to the north of the site.

2.0 Proposed Development

- 2.1. Permission is sought for a two storey dwelling, garage, entrance gates and piers, a package wastewater treatment unit and percolation area, and all associated site works. The following is noted:
 - Site Area – Stated as 0.257 ha.
 - Gross floor area of proposed dwelling – 330 m².
 - Proposed garage – 60 m².
 - Proposed connection to public water mains.
 - Surface water disposal – proposed soakpits.

- A new entrance is proposed as indicated on the Site Layout Plan.

3.0 Planning Authority Decision

3.1. Decision

By Order dated 15th October 2025, Limerick City and County Council decided to refuse permission for the following reasons:

1. *The proposed development would contribute to the already extensive ribbon development and give rise to a build-up of development in this rural area, which is lacking in certain services and community facilities. The proposed development, would therefore, be contrary to the Sustainable Rural Housing Guidelines for Planning Authorities (2005), would be detrimental to the rural character of the area and would be contrary to the proper planning and sustainable development of the area.*
2. *The proposed development would be prejudicial to public health because it is considered that the subsoil, as indicated by tests, is unsuitable for the treatment of effluent, notwithstanding the proposed use of a proprietary wastewater treatment system. Therefore, this proposal would be contrary to Objective IN O11 of the Limerick development plan (2022-2028), which requires on site wastewater treatment systems to be in accordance with the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

One planning report forms the basis of the assessment and recommendation. The following is noted:

- The appeal site is located in an area designated as ‘Rural Areas Elsewhere’, the applicant was not required to demonstrate a local housing need in accordance with Objective HO O20 of the Limerick Development Plan 2022-2028.
- Overall, house design, siting and material finishes were considered acceptable.

- Access – noted the report of the Roads Section and raised no objection to same.
- Noted the report of Transport Infrastructure Ireland (TII) and Mid-West Roads highlighting that the appeal site is located within the preferred option route location for the N21 improvement scheme.
- Wastewater disposal – noted the report of the Environment Section who raised objection to the proposal due to the unsuitability of the subsoil for treatment and disposal of effluent. Other issues raised included rushes, poaching indicative of poor drainage within the site and saturated ground conditions. Refusal was recommended on this basis.
- Ribbon development – the proposed development would be the fifth dwelling over 250 m stretch on the public road and would give rise to undesirable ribbon development, having regard to the Sustainable Rural Housing Guidelines of Planning Authorities 2005 and refusal was recommended for this reason.
- Noted one third party observation received.
- It was concluded that Appropriate Assessment and EIA were not required.

3.2.2. Other Technical Reports

Roads Department (29th September 2025)

No objection subject to conditions related to in particular:

- Sightlines and stopping sight distances 90 m shall be achieved as shown on the site plan and stopping sight distance layout plan, to include setting back any mature vegetation boundary a minimum of 0.5 behind the sightline envelope.
- To submit photos upon completion to clearly demonstrate that sightlines and stopping sight distances are achieved.
- Any planting shall not interfere with sightlines.
- Surface water management.

Environment (08th October 2025)

The report of the Environment Section recommended refusal on the basis of the following:

- It was observed from site inspection that rushes, poaching were present of site. An existing drainage ditch at the rear of the site adjacent to the greenway route had water present.
- The Site Characterisation Report indicated mottling at 700 mm to 800 mm below ground level (BGL) representative of a potentially high water table. Water ingress noted at 0.6 m BGL.
- Percolation testing not completed as per EPA Code of Practice 2021 – the sub-surface test was completed over 2 days.
- Sub-surface value is 53. The percolation on site is much slower and there is a greater change of the proposed domestic wastewater treatment system (wwts) impacting on surface water.
- There is an over concentration of domestic wwts in the area with 11 houses within 250 m of the subject site.
- The River Arra 010 is at risk from domestic wwts under the Water Framework Directive.

3.3. Prescribed Bodies

- Transportation Infrastructure Ireland (TII) – The PA to abide by policy re development on/ affecting national roads (DoECLG Spatial Planning and National Roads Guidelines for Planning Authorities (2012).
- Mid-West Roads – No objective. The PA to advise applicant of the route corridor for preferred option for the N21 Newcastle West road scheme.

3.4. Third Party Observations

One third party observation was made by Belinda Murphy. The issue raised related to an error in the site map indicating that the proposed new entrance to the site is opposite the applicant's parents house which was incorrect. The proposed access is located opposite the property of the third party making the submission.

4.0 Planning History

Appeal Site:

- None recent.

Adjoining Site Approx. 105 m to East:

- P.A. Ref. 24/154 – Extension to existing dwelling granted. Further information was sought regarding existing septic tank. Further information response included site assessment. The report of the Environment Section noted that the upgrade of on site wwts is the best option but did not comply with EPA Code of Practice (28th June 2024).

5.0 Policy Context

5.1. National Policy

- 5.1.1. Project Ireland 2040 – National Planning Framework (revised 2025) and National Development Plan 2021-2030.

National Policy Objective 24

Support the sustainable development of rural areas by encouraging growth and arresting decline in areas that have experienced low population growth or decline in recent decades and by managing the growth of areas that are under strong urban influence to avoid over-development, while sustaining vibrant rural communities.

National Policy Objective 28

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements;

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

5.1.2. Climate Action Plan (CAP) 2025 / CAP 2024

Climate Action Plan 2025 builds upon previous Plan by refining and updating the measures and actions required to deliver the carbon budgets and sectoral emissions ceilings and it should be read in conjunction with Climate Action Plan 2024.

5.2. National Guidance

- Sustainable Rural Housing Planning Guidelines (April 2005)

Chapter 4: Rural Housing and Planning Applications

Appendix 4: Ribbon Development

Whether a given proposal will exacerbate such ribbon development or could be considered will depend on:

- The type of rural area and circumstances of the applicant,
- The degree to which the proposal might be considered infill development, and
- The degree to which existing ribbon development would be extended or whether distinct areas of ribbon development would coalesce as a result of the development.

- Development Management Guidelines for Planning Authorities (June 2007)

5.3. Limerick Development Plan 2022-2028 (as varied¹)

➤ Chapter 3: Spatial Strategy

- Objective CGR O1 Prevention of Urban Sprawl

It is an objective of the Council to prevent linear roadside frontage development on roads leading out of towns and villages in order to retain the identity of towns/

¹ There has been 1 no. variation made to the development plan regarding clarification of text in Chapter 7 and amendments to Policy TR P11 and Objective TR O37. The variation was adopted on 22nd May 2023.

villages, to prevent sprawl and to ensure a distinction in character between built up areas and the open countryside.

➤ **Chapter 4 Housing**

- Appeal Site – Located in a rural area designated as ‘Rural Areas Elsewhere’.
- Objective HO O21 Rural Areas Elsewhere

It is an objective of the Council that to help stem the decline and strengthen Rural Areas Elsewhere, in general demand for permanent residential development should be accommodated, subject to meeting normal planning and environmental criteria.

- Section 4.4

In all cases the consideration of individual sites, for rural housing will be subject to normal siting and design considerations, which will include, but not necessarily be limited to the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard,
- That any proposed on-site waste water disposal system is designed, located and maintained in a way which protects water quality,
- That the siting and design of new dwellings takes account of and integrates appropriately with its physical surroundings and other aspects of the natural and cultural heritage and,
- That the proposed site otherwise accords with the objectives of the Development Plan in general.

➤ **Chapter 6 Environment, Heritage, Landscape and Green Infrastructure**

- Objective EH O16 Septic Tanks and Proprietary Systems

It is an objective of the Council to ensure that septic tanks/proprietary treatment systems, or other waste water treatment and storage systems which are required as part of a development, comply with the standards set out under EPA 2021² etc. and

² Objective EH O16 specifically states ‘EPA 2021 etc’, but likely refers to The Environmental Protection Agency Code of Practice Domestic Waste Water Treatment Systems (Population Equivalent ≤10

that they are constructed only where site conditions are appropriate. In respect of groundwater, it is a requirement that as part of the required site assessments the local groundwater conditions as identified in the groundwater protection scheme and the River Basin Management Plan 2022-2028³ are properly assessed in informing the Groundwater Protection Response.

➤ **Chapter 7 Sustainable Mobility and Transport**

- Policy TR P11 Road Safety and Carrying Capacity of the non-national Road Network

It is a policy of the Council to safeguard the carrying capacity and safety of the non-national road network throughout Limerick.

In implementing the above policy, the council will have regard to the following objectives:

- Objective TR O37 Land Uses and Access Standards

It is an objective of the Council to:

a) Ensure that any development involving new access to a non-national public road, or the intensification of use of an existing access onto a non-national public road meets the appropriate design and safety standards.

b) Ensure that on roads that are sub-standard, either in terms of their width, (less than 3m), alignment, surface condition or junction with the nearest main road, development for one off rural housing will only be considered in exceptional circumstances. This includes applicants who have a demonstrable social need to live on the particular road, where no alternative site is available, or where the only alternative access available is onto a strategic regional road as designated in the Development Plan.

➤ **Chapter 8 Infrastructure**

- Objective IN O11 Private Waste Water Treatment

It is an objective of the Council to:

Private Waste Water Treatment It is an objective of the Council to:

³ It is noted that the correct title is "River Basin Management Plan 2022-2027"

- a) Promote the changeover from septic tanks to the public foul water collection networks where feasible and to strongly discourage the provision of individual septic tanks and domestic wastewater treatment systems, in order to minimise the risk of groundwater pollution.
- b) Ensure single house wastewater treatment systems in those areas not served by a public foul sewerage system comply with the EPA Code of Practice for Domestic Waste Water Treatment Systems 2021 as may be amended or updated.
- c) Require non-domestic wastewater treatment systems in those areas not served by a public foul sewerage system to demonstrate full compliance with EPA Wastewater Treatment Manuals (Treatment Systems for Small Communities, Business, Leisure Centres and Hotels) as maybe amended or updated.
- d) Ensure all private wastewater treatment systems shall be located entirely within the site boundary. Under no circumstances shall single domestic treatments units or septic tanks be shared between dwellings.
- e) Ensure that private wastewater treatment facilities, where permitted, are operated in compliance with their wastewater discharge license, in order to protect water quality.

➤ **Chapter 11 Development Management Standards**

- Section 11.8.1 Access to Roads, Traffic and Transport Assessments (TTAs) and Road Safety Audits (RSAs)
 - All applications seeking access on the road network will be assessed in accordance with national standards and guidance. Considerations will include:
 - Classification of the road, – Speed limit, – Width, carrying capacity, condition of the road, drainage, vertical and horizontal alignment of the road, junctions in the vicinity, – Nature, scale, type of activity seeking access to the road network, – Traffic likely to be generated, type of vehicles.
 - Technical design of access and sightline visibility and stopping distances and general safety. Sight distances and stopping sight distances should be in compliance with current NTA road geometry standards and guidance documents listed above and any subsequent documents.

5.4. Natural Heritage Designations

The nearest designated sites are the following:

- SPA: 004161 - Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – approx. 3.08 km to the west.
- SAC: 002165 - Lower River Shannon SAC – approx. 6.51 km to the west.
- SAC: 002279 - Askeaton Fen Complex SAC – 14.22 km to the northeast.
- pNHA: 001425 - Ballymorrisheen Marsh – – 14.22 km to the northeast.
- pNHA: 001431 - Glenastar Wood – approx. 3.74 km to the northwest.

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. A First Party appeal against the PA's decision to refuse permission has been received from Paul Logue. The grounds of appeal may be summarised as follows:

Refusal Reason 1

- The existing ribbon development arises due to prior decisions of Limerick City and County Council (LCCC). By permitting one additional house does not materially worsen the existing ribbon development.
- No detail is provided by LCCC in regard to lack of certain services and community services. Services can mean anything to include a post box, airport and facilities can be constructed equally widely.
- The Sustainable Rural Housing Guidelines 2005 are obsolete and housing needs have changed completely since their introduction. The status of the Guidelines was clarified by the High Court in *Sherwin v An Bord Pleanála* [2009 No. 6 JR], that guidance cannot alter or displace substantive and established law. Therefore while regard may be given to guidelines, non-compliance with guidelines alone which is denied in this case, is insufficient grounds on which to base a refusal.

- The claim that the impact on the rural character of the area is negated by the statement in the reason for refusal which confirms that the area is already well developed. The proposed road bypassing Newcastle West which will be proximate to the site will drastically alter the rural character of the locus both at construction and operational stage. Therefore, the reason for refusal is not correctly grounded in prospective appraisal of the proper planning and development of the area.
- If the refusal is upheld, it will result in a vacant site of little or no agricultural value surrounded by houses which is unsustainable, leading to derelict and under-utilised land.

Refusal Reason 2

The report of the Environment Section of the council is based on visual inspection rather than measured data. The proposed system was designed to comply with all parameters and requirements of the EPA Code of Practice 2021. In this regard, the following is set out in the accompanying report compiled by Casy Consulting Engineers Ltd to the appeal submission:

- a) The presence of rushes indicates localised surface wetness not system unsuitability. Appendix B of the EPA Code of Practice 2021 states that vegetation indicators 'must be interpreted in conjunction with soil structure, depth to water table and percolation results'.
- b) There is no evidence of effluent breakout or cumulative impact. Section 2.3 of the EPA Code of Practice 2021 requires each site to be assessed on its own merits and does not prescribe limits on the number of systems within any radius. The proposed tertiary treatment unit will produce effluent quality of ≤ 5 mg/L BOD and ≤ 5 mg/ L SS exceeding standard secondary performance and reducing cumulative loading in the catchment.
- c) The drainage ditch referred to was identified and mapped in the report. All separation distances comply with Table 6.2 of the EPA guidance which specifies a minimum of 10 m setback to open drains. The proposed percolation area exceeds this and no direct or indirect discharge will occur. Effluent will percolate through unsaturated subsoil following full tertiary treatment.

- d) The height of the water table and mottling identified by the PA is consistent with the findings of the site characterisation assessment. Water ingress at 600 mm does not constitute site failure. Table 6.3 of the EPA guidelines indicates for a tertiary treatment system with a raised percolation bed, the minimum unsaturated depth required beneath the invert of the percolation pipes is 600 mm. The proposal meets the guidelines structural and hydraulic criteria.
- e) Testing was conducted in accordance with Appendix D of the EPA Code of Practice. Fieldwork commenced at 09:00 am and the second fill concluded at 19:10 pm on the same day. Due to the slow percolation rate (2-3 hrs per 100 mm fall) completing the third fill that night would have breached health and safety working hours. The final fill was completed the following morning. The EPA guidelines require each fill to be monitored at regular intervals until a steady-state infiltration rate is achieved. It does not prohibit completion on successive days.
- f) The T value of 53 was determined by the site assessment, no further test was undertaken by the authority. For the design the P test (400 mm BGL) governs suitability as the stone bed is at existing ground level. Table 6.1 of the EPA guidelines indicates that P values between 3 and 75 indicate suitability for discharge via a percolation area. Therefore the site is within the acceptable range.
- g) The River Arra lies approx. 433 m from the site and flows 300 m in the opposite direction which is well beyond the 250 m influence zone generally referenced in Groundwater Protection Responses tables. The proposed design considered this receptor to achieve compliance with Waterframe Work Directive and Section 7.1 of the EPA Code of Practice re protection of surface water and groundwater.

6.2. Planning Authority Response

None.

6.3. Observations

None.

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 having inspected the site, and having regard to the relevant local, regional and national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Principle of Development
- Waste Water Treatment
- Ribbon Development
- Access and Road Safety – New Issue

7.2. Principle of Development

7.2.1. The appeal site is located in a rural area categorised in the Limerick Development Plan 2022-2028 as 'Rural Housing Category 2 – Rural Areas Elsewhere' and Objective HO O21 which relates to Rural Houses Elsewhere is applicable in this case. Having regard to the provisions of the objective, there is no requirement for an applicant to demonstrate a local housing need to such areas. I note that the objective seeks to accommodate residential development, subject to meeting normal planning and environmental criteria. In this regard, the proposed development would be acceptable in principle, subject to all planning considerations being met.

7.2.2. I note that the PA overall was satisfied with the design, scale and finish of the proposed dwelling and garage, and was further satisfied that the proposed access and sightlines were acceptable subject to condition.

7.2.3. In general, I have no issues of concern with regard to the proposed design, scale and material finishes of the proposed development having regard to the mixed scale and building type of dwellings already existing in the area.

7.3. Site Suitability for Wastewater Disposal

7.3.1. Objective EH O16 and Objective IN O11 of the Limerick Development Plan requires that where it is proposed to service a rural dwelling with a septic tank / proprietary

treatment system or other wastewater treatment and storage system, proposals must comply with the EPA 2021 and are constructed only where site conditions are appropriate. Furthermore, in relation to groundwater, it is a requirement as part of the site assessment, the local groundwater conditions as identified in the groundwater protection scheme and the River Basin Management Plan 2022-2028 are properly assessed in informing the Groundwater Protection Response.

- 7.3.2. I note the reason for refusal of the PA and its assessment and in particular the report of the Environment Section. The concerns raised by the Environment Section relate to a number of issues i.e. the over concentration of domestic wastewater treatment systems in the area (11 dwellings within 250 m) and the subsurface percolation of the site. In this regard, it is stated that percolation on site is much slower and there is a greater chance of the onsite treatment system impacting on surface water. However, it is not clear how this is so as no explanation is offered in the report and the First Party's consulting engineer contends that the no further test was undertaken by the PA. The other issues raised by the Environment Section relate to a high water table as indicated by mottling at 700 mm BGL and water ingress at 0.6 m BGL and the impact on the River Arra which is deemed at risk from domestic wastewater treatment systems.
- 7.3.3. At time of site inspection, I noted that ground conditions on site were soft and wet underfoot. I observed water in the drainage ditch at the rear of the site, and the presence of rushes was profuse throughout the site.
- 7.3.4. Under the EPA Code of Practice 2021, the trial hole in locally important or poor aquifers, should be excavated to a depth of at least 2.1 m where possible. From the Site Characterisation Form, I note that the underlying aquifer category is indicated as 'Local Important' and has a Low vulnerability rating (GSI mapping). The Groundwater Protection Response for this category is R1 (Table E1, Appendix E, EPA Code of Practice 2021). Notwithstanding, I note that the trial hole in this case was excavated to a depth of 3.0 m.
- 7.3.5. The soil type identified for the area is AlluvMIN - Alluvium, BminDW – well drained and the subsoil is specified as TLS – limestone till, A -Alluvium. The trial and percolation holes were opened at the rear of the site adjacent to the location of the proposed wastewater treatment system (wwts).

- 7.3.6. The trial hole log indicates the top 300 mm layer consists of topsoil, gravelly silt/clay described as compact, rich brown in colour with small rootlets throughout. Below this to a depth of 400 mm, the subsoil is described as cobbley, silt/clay with water ingress. The density is indicated as very compact and is brown in colour. From 0.6 m to the bottom of the trial hole, water ingress and mottling is recorded. I note that bedrock and the water table were not encountered at 3.0 m. The percolation test holes were dug and pre-soaked. The form indicates that the test holes were soaked three times on the 07th August 2025 and also three times on the 08th August 2025 with the test being undertaken on the 08th August.
- 7.3.7. In Section 3.3(a) of the Site Characterisation Report, the subsurface T₁₀₀ result is recorded at 123.33 which requires Step 4 Standard Method to be carried out. The subsurface percolation value was recorded as 53.06 (min/25 mm) with the site assessor concluding that the site was suitable. In Section 3.3(b) of the report, I note that the Surface Percolation Test for Soil recorded a T₁₀₀ result of 65. The test proceeded to Step 4: Standard Method which recorded a Surface Percolation Value of 33.47.
- 7.3.8. From assessment of the plans and details submitted, I note that the recommendation based on the recorded subsurface and surface results and for a population equivalent (PE) of 6 is for the installation of a tertiary treatment system i.e. Ecoflo Coco filter and infiltration /treatment area. This would sit on a 0.3 m deep stone distribution bed which is to be installed on the existing ground level, and then discharging to ground water.
- 7.3.9. The point of infiltration is indicated to be at existing ground level which is 0.6 m above the water table. I note that the applicant has indicated that a depth of 0.6 m below the infiltration point would be achievable which accords with the minimum depth requirements as set out in Table 6.3 of the EPA Code of Practice. In light of the observations set out in the council's Environment Section report in regard to the percolation on site being slower and the consequences arising as a result, as well as the over concentration of wastewater treatment systems within the area, and having regard to Table 6.3, I have concerns that this may not meet these required standards. In order to address same, an Internal Specialist Technical Note was provided by the Environmental Team. In this regard, the technical note is summarised as follows:

- In order satisfy the requirements of Table 6.3 of the EPA CoP and install a tertiary treatment system on a site which has 0.6 m of unsaturated soil and/or subsoil, the applicant was required to demonstrate a high level of treatment within the proposed tertiary treatment unit. Specifically, the EPA CoP requires the applicant to demonstrate that the tertiary treatment system proposed is capable of producing treated wastewater with no more than 1,000 cfu/100 ml of E. coli. This additional requirement is considered necessary to provide confidence that potential impacts on human health are avoided due to insufficient treatment within the soil and/or subsoil.
- Basis of the information provided, it has not been fully demonstrated that the necessary efficiency, with regard to pathogen removal is available or provided for. No details on the pathogen removal efficiency of the proposed treatment system has been provided by the applicant. Therefore significant impacts on human health and/or groundwater and surface water quality cannot be ruled out as a result of this finding.

7.3.10. Having regard to the foregoing, I am not satisfied on the basis of the information provided in the application details and in the grounds of appeal, that it has been demonstrated that the proposed secondary wastewater treatment system tertiary treatment system is sufficient to safeguard discharges to groundwater in the manner as presented in the application details.

7.3.11. The site layout plan appended to the Site Characterisation Report indicates that the proposed wastewater treatment system and infiltration /treatment area complies with the required separation distances as set out in Table 6.2 of the EPA Code of Practice 2021. However, the open drainage ditch that I observed at the rear of the site which was also identified in the report of the council's Environment Section is not shown on the Site Layout Plan drawing provided with the application. I note that the First Party's consulting engineer in the grounds of appeal contends that the ditch was identified and mapped in the Site Characterisation Report. However, having examined same, I note that the Site Characterisation Report and the Site Layout Plan appended to the report do not make any reference or observation to the existing open drainage ditch on site as part of the visual assessment. There is a minimum separation distance requirement of 10 m between an open drain or drainage ditch and in this case, the periphery of an infiltration / treatment area. I note that 3.0 m is shown between the

periphery of the proposed infiltration bed and the rear boundary of the site, where the open drain is located. Section 6.3 of the EPA Code of Practice 2021 states that if any of the required separation distances cannot be met on a new site, the site is not suitable for the installation of a domestic wastewater treatment system.

- 7.3.12. Having examined all of the information of file and having regard to the Technical Note provided by the Environmental Scientist, and to my site inspection, I am not satisfied that it has been demonstrated in accordance with the EPA Code of Practice 2021 that the site is suitable for the safe and adequate disposal of effluent. I note the provisions of Objectives EH O16 and IN O11 of the development plan which requires all new development to provide separate foul drainage systems in accordance with the EPA Code of Practice 2021, as such, I consider that the decision of PA as set out in the second reason for refusal is appropriate in this case and I recommend refusal in this case.

7.4. Ribbon Development

- 7.4.1. The PA's first reason for refusal relates to the proposed development contributing to the already extensive ribbon development in the area and to a rise in the build-up of development in this area which is lacking in certain services and community facilities. The PA contend that the proposed development would be the fifth dwelling over a 250 m stretch of public road (to the east) and as such would constitute ribbon development as per the Sustainable Rural Housing Guidelines for Planning Authorities (2005). A map is provided in the planning report illustrating the aforementioned.
- 7.4.2. I note that the applicant in the grounds of appeal states that the existing ribbon development arises due to previous decisions of the PA, and submits that permitting one additional dwelling does not materially exacerbate the existing ribbon development. The point is also made that the Sustainable Rural Housing Guidelines 2005 (SHRG) are obsolete, and reference is made to a High Court judgment *Sherwin v An Bord Pleanála* [2009 No. 6 JR] whereby it was held that guidance cannot override, amend, or displace statutory law. Therefore, it is submitted by the appellant that non-compliance with the SHRG is insufficient grounds on which to base a reason for refusal.

- 7.4.3. The Commission will already be aware that statutory provisions and established law take precedence over ministerial guidelines or policy documents. In relation to same, I note that the Guidelines remain applicable and relevant to the consideration of applications such as this one, and that the Commission is required to have regard to same until such time that they are updated or replaced.
- 7.4.4. The Commission will note that Appendix 4 of the SHRG states that whether a proposal will exacerbate ribbon development will depend on a number of factors which are set out in Section 5.2 above. In particular, it states that areas characterised by ribbon development will in most cases be located on the edges of cities and towns and will exhibit characteristics such as high density of almost continuous road frontage type development, e.g. where 5 or more houses exist on any one side of a given 250 m of road frontage.
- 7.4.5. The appeal site is located approx. 862 m to the northwest of the Local Area Plan boundary of Newcastle West and the local roads which travel west of the settlement boundary exhibit high density of continuous road frontage development. I note the site context, that the appeal site is situated to the west of 4 no. existing dwellings within a 250 m stretch. The appeal site forms part of a larger field which contains redundant /derelict farm buildings and is located on the western side of the field. Given the configuration of the site and the proposed siting of the dwelling within the larger field and the nearest dwelling to the east, the proposed development would also potentially create an infill site. The Commission should also note that the area in which the site is located is designated in the settlement strategy as 'Rural Areas Elsewhere' whereby compliance with rural housing need policy is not a requirement. However, Objective HO O21 of the development plan seeks to facilitate rural housing in such designated areas, subject to all normal planning and environmental criteria being met.
- 7.4.6. Having regard to the foregoing, it is my view that the issue which arises is whether this rural area has the capacity to accommodate the proposed development in accordance with siting and design considerations as set out in Section 4.4 of the development plan. As noted previously, while the subject site does not represent an infill development site, I consider that it would result in the extension of existing linear development thereby exacerbating the density of random housing development in this rural area which is located approx. 862 m to the northwest of Newcastle West settlement boundary. Having regard to this, it is my consideration that the proposed

development would give rise to an excessive density of random rural housing development which would in effect give rise to further demands for the provision of further public services and community facilities, and would militate against the preservation of the rural environment. I therefore concur with conclusions of the PA in this case and recommend that permission is refused.

7.5. Access & Road Safety – New Issue

- 7.5.1. In relation to the proposed access and sightlines from same, I note that the Roads Section did not raise an objection to the proposed access but recommended a pre-development condition requiring sightlines and stopping sight distances of 90 m '*which shall be achieved as indicated on the Site Layout Plan drawing provided with the application*'. The condition further requires the applicant to submit photographic evidence to clearly demonstrate that sightlines and stopping sight distances have been achieved and ensuring that any planting does not interfere with sightlines.
- 7.5.2. A new access is proposed to serve the dwelling. The Site Layout Plan submitted with the application shows modifications to the existing hedgerow roadside boundary to the southeast of the proposed entrance whereby it would be set back in order to improve overall visibility and safety on the public road. It is stated on the drawing that the section of the road to be set back is currently a blind bend and improvement works would be beneficial to all local traffic. I note for the Commission that lands to the east of the site are not within the landholding of the applicant. A letter of consent from the relevant landowner is included in the application details in regard to site remedial works related to the roadside boundary to achieve sightlines to the east.
- 7.5.3. At time of site inspection, I observed that there is a curve in the horizontal alignment of the road as the road travels southeast. This sightline is impeded when emerging from the proposed site access as a result and in particular, due to an old structure covered by ivy/ overgrown vegetation at the edge of the road. This structure is not indicated on the Site Layout Plan drawing. I noted that substantial works had already been undertaken to the existing roadside boundary as a significant section of the hedgerow roadside boundary to the east/ southeast of the proposed access was removed and replaced with newly planted laurel hedging that is set back from the roadside edge. Further to the east of this, I noted that further works had been carried

out as this section of the roadside boundary as indicated on the Site Layout Plan had also been removed. I note that the proposed site remedial works carried out on the ground are outside of the application red line boundary.

- 7.5.4. Having regard to the foregoing and based on my site inspection I am not satisfied that there is a clear unobstructed line of vision from the proposed access for vehicles emerging from the site onto the public road in a southeasterly direction due to the horizontal alignment of the road, and because of the impediment structure located at the edge of the public road. The achievement of the sightline to the southeast will result in the significant loss of roadside boundary consisting of mature hedgerow and will require replacement by way of condition.
- 7.5.5. It is noted that the adjoining lands are not within the control of the applicant, however it appears that there is a familial connection to the lands. Notwithstanding, I note for the Commission that the Development Management Guidelines state that 'conditions should be capable of being complied with. It is doubtful that a condition requiring the maintenance of sightlines by the removal of or trimming of hedges or trees on a neighbour's property is within the applicant's power to fulfil: even where the neighbour has given consent that consent may subsequently be withdrawn'. It is therefore my consideration that the proposed entrance would be contrary to policy TR P11 and Objective TR O37 of the development plan and I recommend refusal on this basis. As I consider this to be a new issue, the Commission may wish to seek the views of the parties. However, having regard to the other substantive reasons for refusal set out below, it may not be considered necessary to pursue the matter.

8.0 EIA Screening

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

9.0 AA Screening

- 9.1. I have considered the proposed development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 9.2. The appeal site is located in a rural area and is not designated for any conservation purposes. The closes European designated sites are:
- SPA: 004161 - Stack's to Mullaghareirk Mountains, West Limerick Hills and Mount Eagle SPA – approx. 3.08 km to the west.
 - SAC: 002165 - Lower River Shannon SAC – approx. 6.51 km to the west.
 - SAC: 002279 - Askeaton Fen Complex SAC – 14.22 km to the northeast.
- 9.3. The planning authority considered that there was no requirement for appropriate assessment, the project was screened out due to the lack of ecological or hydrological connection between the development site and any European site.
- 9.4. 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 nature and limited scale of the development and lack of impact mechanisms that could significantly affect a European site,
 - Distance from and lack of pathways to European sites,
 - Taking into account the screening determination of the PA.
- 9.5. I conclude that 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 Appropriate Assessment (Stage 2) under Section 177V of the Planning and Development Act 2000 (as amended) is not required.

I consider that the proposed development, individually or in-combination with other plans or projects, would not be likely to have a significant effect on any European designated site(s). As appropriate assessment is therefore not required.

10.0 WF Directive Screening

10.1. The appeal site is a rural area approx. 2.5 km to the northwest of Newcastle West.

10.2. The nearest river waterbody relative to the appeal site is the Arra River ARRA_010 (EU_CD - IE_SH_24A040500) which is located c. 208 m to the northwest and is recorded as 'Poor' status.

The underlying ground waterbody is the Shanagolden (EU_CD IE_SH_G_203) which is recorded as 'Good' status.

10.3. 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.

The reason for this conclusion is as follows:

- The nature and scale of the development proposed.
- Distance from the nearest relevant water bodies.

10.4. 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.

11.0 Recommendation

11.1. I recommend that permission is refused for the reasons and considerations set out below.

12.0 Reasons and Considerations

1. Having regard to the inadequate area of the site for the satisfactory disposal of wastewater effluent, and taken in conjunction with existing development in the vicinity, the Commission is not satisfied, on the basis of the submissions made in connection with the planning application and the appeal, that effluent from the proposed development can be satisfactorily treated and disposed of on site in accordance with the EPA's Code of Practice for Domestic Waste Water Treatment Systems (PE <10) (EPA 2021), notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health and would be contrary to the provisions of Objective EH O16 Septic Tanks and Proprietary Systems and Objective IN O11 Private Waste Water Treatment Limerick Development Plan 2022-2028 (as varied).
2. Taken in conjunction with existing residential development in the area, the proposed development would give rise to an excessive density of random housing development in a rural area outside lands zoned for residential development and lacking certain public services and community facilities. The proposed development would, therefore, give rise to demands for the provision of further public services and community facilities, would militate against the preservation of the rural character, would contribute to and exacerbate the existing pattern of ribbon development in the area and accordingly, would be contrary to the proper planning and sustainable development of the area.
3. It is considered that the proposed development would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a substandard road due to the horizontal alignment and at a point where sightlines are restricted in a south easterly direction. The proposed development, would, therefore be, contrary to Policy TR P11 Road Safety and Carrying Capacity of the non-national Road Network and Objective TR O37 Land Uses and Access Standards of the Limerick Development Plan 2022-2028 (as varied).

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.

Clare Clancy

17th February 2026

Form 1 - EIA Pre-Screening

Case Reference	PL-500236-LK-25
Proposed Development Summary	Construction of dwelling, wastewater treatment system and associated site works
Development Address	Dually, Newcastle West, Co. Limerick
In all cases check box /or leave blank	
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (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.
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"/> Yes, it is a Class specified in Part 1. EIA is mandatory. No Screening required. EIAR to be requested. Discuss with ADP.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
<input 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>No Screening required.</p>	
<p><input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.</p> <p>EIA is Mandatory. No Screening Required</p>	
<p><input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.</p> <p>Preliminary examination required. (Form 2)</p> <p>OR</p> <p>If Schedule 7A information submitted proceed to Q4. (Form 3 Required)</p>	<p>Class 10(b) of Part 2, Infrastructure projects, construction of more than 500 dwelling units.</p>

<p>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)?</p>	
<p>Yes <input type="checkbox"/></p>	
<p>No <input checked="" type="checkbox"/></p>	

Inspector: _____ Date: _____

Form 2 - EIA Preliminary Examination

Case Reference	PL-500236-LK-25
Proposed Development Summary	Construction of dwelling, wastewater treatment system and associated site works
Development Address	Dually, Newcastle West, Co. Limerick
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
<p>Characteristics of proposed development</p> <p>(In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).</p>	<p>Development comprises a new dwelling and proposed wastewater treatment system.</p> <p>No demolition works required or the use of substantial natural resources, or give rise to significant risk of pollution or nuisance.</p> <p>The development by virtue of its type does not pose a risk of major accident and/or disaster or is vulnerable to climate change.</p>
<p>Location of development</p> <p>(The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).</p>	<p>The development is located in a rural area and is served by a public water supply. Surrounding land uses are agricultural lands, farm buildings and one-off housing.</p> <p>Not environmentally sensitive, removed from pNHAs and European sites.</p> <p>Area not designated for the protection of natural heritage. Three archaeological features (ringforts) identified within 350 m, no built heritage.</p> <p>It is not considered that any significant cumulative environmental impacts will result when considered in accumulation with existing developments.</p> <p>There are no identified risks of accidents or disasters, nor is there an obvious risk to human health that result from the proposed development.</p> <p>The proposed development will not give rise to the production of significant waste, emissions or pollutants.</p>
<p>Types and characteristics of potential impacts</p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity,</p>	<p>The site is located within a rural environment.</p> <p>Having regard to the scale of the development and low impact characteristics of the proposed development, its location which is at a remove from sensitive habitats/features likely limited magnitude and spatial extent of effects and absence of in combination effects</p>

duration, cumulative effects and opportunities for mitigation).	there is no potential for significant effects on the environment.
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.	
There is a real likelihood of significant effects on the environment.	

Inspector: _____ **Date:** _____

DP/ADP: _____ **Date:** _____

(only where Schedule 7A information or EIAR required)

WFD – Stage 1 Screening

WFD IMPACT ASSESSMENT STAGE 1: SCREENING			
Step 1: Nature of the Project, the Site and Locality			
An Comisiún Pleanála ref. no.	PL-500236-LK- 25	Townland, address	Dually, Newcastle West, Co. Limerick
Description of project	Construction of dwelling, wastewater treatment system and associated site works		
Brief site description, relevant to WFD Screening,	Site is located on rural lands, the nearest waterbody River Arra is located c. 208 m to the northwest.		
Proposed surface water details	Proposed soakaway(s)		
Proposed water supply source & available capacity	Existing connection to public water mains		
Proposed wastewater treatment system & available capacity, other issues	Proposed wastewater treatment system – site not deemed to comply with EPA Code of Practice 2021 and refusal recommended on these grounds.		
Others?	Not applicable		