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**Planning and Development Acts 2000 to 2020**

**Planning Authority: Clare County Council**

**Planning Register Reference Number: P20/991**

**APPEAL** by Grainne Kavanagh of Rinevella, Cross, Carrigaholt, County Clare against the decision made on the 19<sup>th</sup> day of February, 2021 by Clare County Council to refuse permission.

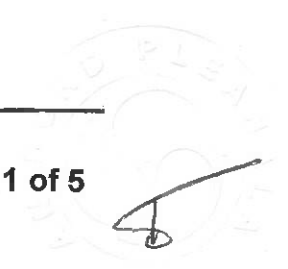
**Proposed Development:** Retention of a mobile home for habitable purposes, entrance from road and associated site works at Rehy East, Cross, Carrigaholt, County Clare.

**Decision**

**REFUSE** permission for the above proposed development in accordance with the reasons and considerations set out below.

**Matters Considered**

In making its decision, the Board had regard to those matters to which, by virtue of the Planning and Development Acts and Regulations made thereunder, it was required to have regard. Such matters included any submissions and observations received by it in accordance with statutory provisions.



## Reasons and Considerations

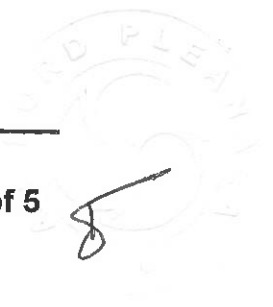
1. The site of the proposed development is located within an “Area of Special Control” as set out in the Clare County Development Plan 2017 – 2023, as varied, where it is policy (under policy CDP3.11) to permit housing in the countryside only to applicants who can demonstrate compliance with specified rural housing need criteria. Furthermore, under the Sustainable Rural Housing Guidelines for Planning Authorities, issued by the Department of the Environment, Heritage and Local Government in April 2005, and National Policy 19 of the National Policy Framework, it is the policy to distinguish between urban-generated and rural-generated housing need, and to direct the former into existing towns, villages and other settlements.

On the basis of the documentation submitted with the planning application and appeal, it is considered that the applicant does not have a rural-generated housing need for a house at this rural location, as set out in these Policies and does not come within the scope of the rural housing need criteria set out in the development plan. In addition, on the basis of the documentation submitted with the planning application and appeal, it is considered that the applicant’s housing need relates to an urban area (such as Limerick or Dublin in this instance), rather than to this rural location, and that the applicant’s stated housing need could be satisfactorily met within an established town or village/settlement centre. The development proposed to be retained would, therefore, be contrary to the Ministerial Guidelines and National Policy, would contravene materially the provisions of the development plan. and would be contrary to the proper planning and sustainable development of the area.

2. The site is located in an area which is designated in the current Clare County Development Plan as a Heritage Landscape within an Area of Special Control and between road and sea within the identified Seascape Character Area 9 – South Loop Head and Shannon Mouth, where all proposed developments are required to demonstrate that every effort has been made to reduce the visual impact of the development, Policy Objectives CDP13.5 and CDP13.6 refer. This designation and policies are considered reasonable.

The development proposed to be retained, including the ground works carried out to accommodate the mobile home on the site, does not represent an appropriate form of development within this Heritage Landscape and is not consistent with the established character of this very sensitive area of the Loop Head peninsula. The development would detract to an undue degree from the rural character and coastal scenic amenities of the area. It is considered, therefore, that the development if retained, would contravene these policies, would set an undesirable precedent for similar type development on sites along the coast, and would be contrary to the proper planning and sustainable development of the area.

3. It is considered that the proposal to retain the connection of the mobile home to the existing septic tank system on the adjacent site would not comply with the provisions of the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.  $\leq 10$ ), issued by the Environmental Protection Agency in 2009, or with the policy objectives of Clare County Development Plan 2017-2023, as varied, as they relate to such systems, CDP8.27 refers.



In the absence of any detailed assessment, the Board is not satisfied that the site conditions are suitable for the treatment and disposal of domestic effluent and that the existing system is capable of treating and disposing of waste arising from an additional residential unit. The development, the subject of this retention application and appeal, would, therefore, represent an unacceptable risk of pollution to the water environment, particularly associated with the adjacent Special Area of Conservation, and would be prejudicial to public health.

4. The site of the development proposed to be retained lies partly within the Lower River Shannon Special Area of Conservation, (Site Code: 002165), a site of European importance. It is also located in a Flood Risk Zone A. The Board is not satisfied, based on the submissions made in connection with the planning application and appeal, and in the absence of any appropriate assessment screening or flood risk assessment by the applicant, that adequate information has been provided on the impact of the works carried out on the Annexed habitat and the resulting implications for wildlife and flora, and on the efficacy and capacity of the existing septic tank for the treatment and disposal of domestic effluent.

It is therefore considered that the Board is unable to ascertain, as required by the relevant EU Regulations, that the development, the subject of this retention application and appeal, either individually, or in combination with other plans or projects, would not be likely to have a significant effect on Lower River Shannon Special Area of Conservation, (Site Code: 002165), in view of the site's Conservation Objectives. It is considered that the Board is precluded from granting permission in these circumstances.

5. The Board noted that the site lies within a Flood Risk Zone A and that no assessment of flood risk was presented in support of the proposed development. In light of the nature of soils, proximity of the sea and beach, as well as the Special Area of Conservation, the potential for impacts arising cannot be discounted either to the water environments or, indeed, the occupants of the site. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.



**Terry Ó Niadh**

**Member of An Bord Pleanála**

**duly authorised to authenticate**

**the seal of the Board**

Dated this 21<sup>st</sup> day of June, 2021

