



An  
Bord  
Pleanála

## Inspector's Report PL03.247201

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<b>Development</b>	Demolish house and structures and erect house with waste water treatment system, changes to entrance and site works.
<b>Location</b>	Portdrine, Cratloe, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	P16 -518
<b>Applicant(s)</b>	Frances Shinkins.
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Noel & Maura Conolin
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> of November 2016
<b>Inspector</b>	Angela Brereton

## 1.0 Site Location and Description

- 1.1.1. The site is located 9 km to the west north west of Limerick city centre and 1.3 km to the south south east of the village of Cratloe. This site lies in an area of ribbon development along a local road L3114 that runs to the south of the N18 between two consecutive junctions on this national primary road. It is accessed off this local road.
- 1.1.2. The site itself is roughly triangular in shape. This site tapers towards its frontage with the aforementioned local road and it slopes downwards in a southerly direction from this frontage. It appears as an infill brownfield site. Sited centrally within it is a cluster of buildings that comprise the ruins of a cottage, a single storey agricultural workshop, and a partially collapsed Dutch barn. Each of these buildings is orientated on an east/west axis. Adjoining the cottage at a right angle is a small shed and beyond this shed lies a line of outbuildings within the neighbouring site to the east. While these buildings enclose the site to the north east, the site boundary is forward of the building line and is undefined "on the ground". To the south east, this boundary is denoted by means of an existing hedgerow and likewise to the west. The southern boundary is undefined "on the ground" and the northern boundary/frontage to the site is enclosed by means of a timber post and rail fence and a pair of double gates.
- 1.1.3. There is a two storey detached house to the west of the site. This has a recessed gated access and a stone wall that projects to the road to the north west of the site. This somewhat restricts visibility from the subject site entrance as does the stone shed to the north east of the entrance. There are a number of house types in the area, many being single or one and a half storey.

## 2.0 Proposed Development

- 2.1.1. This is to consist of the demolition of the existing derelict dwelling house and outbuildings and the construction of a new dormer style dwelling house including an advanced waste water treatment system and soil polishing filter.
- 2.1.2. This application includes the improvement of the existing site entrance and modifications to the adjacent site entrance, as well as all the site works associated with the above.

2.1.3. Carr Architects has submitted the application on behalf of the applicant and the following documentation is included:

- A Design Statement from Carr Architects.
- Drawings including Site Layout Plan, Floor plans and elevations showing the proposed dwelling. Contiguous Elevations have also been submitted.
- Percolation Test Photos and a Site Characterisation Form.
- A letter from Noelette O'Brien confirming that she is the registered owner of the lands and giving permission for the applicants to apply for permission.
- A letter from Philip O'Sullivan consenting to the proposed entrance works.
- A letter regarding the applicant's ties to the local area.
- A letter from Portdrine Group Water Scheme to confirm that the applicant may connect to the scheme.
- A Exemption Certificate under Part V, Section 97 Planning and Development Act 2000 (as amended).

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. On the 16<sup>th</sup> of August 2016 Clare County Council granted permission for the proposed development subject to 12no. conditions.

### 3.2. Planning Authority Reports

#### 3.2.1. Planner's Report

The Planner had regard to the locational context of the site, planning history and policy and to the submissions made. They had regard to the AA screening report and did not consider that an AA is necessary in this case. Their assessment noted that unlike the previous proposal the site now lies entirely within the boundary of the Portdrine Cluster and considered that as such the principle of a dwelling in this location is acceptable. Also that this has addressed the local housing need issue which was part of the previous ABP refusal.

They considered that the design of the proposed dwelling has regard to the prevailing character of the area and that a two storey house is acceptable on this site, and had regard to visual amenities in the area. They provide that the buildings to be demolished on site have no architectural merit and are not worthy of retention. Having regard to the low operational speed limits on this road, they do not consider that the proposed entrance will result in a traffic hazard.

They considered that proposed pwwts to be acceptable. They noted that the subject site is located outside Flood Zone A and B.

They considered that the applicant has addressed the reasons of the ABP refusal and recommended that permission be granted for the proposed development subject to conditions.

### **3.3. Third Party Observations**

3.3.1. Submissions have been received from local residents including the subsequent Third Party Appellant. These are summarised as follows:

- The design, scale and massing of the proposed development represents an overdevelopment of the site.
- They are concerned regarding the height of the proposed dwelling, almost 50% higher than the original dwelling. Also the impact relative to adjacent dwellinghouses and outbuildings.
- The site does not have the capacity to absorb the proposed dwelling a single storey or one and a half storey or split level dwelling would be preferable.
- The proposed dwelling is not in character with the more traditional lower profile buildings in the area and the character of the Cluster development.
- They are concerned that the proposed development would detract from the visual amenity of the area.
- The current proposal does not have any regard to the scale of the existing buildings which are on site and an established feature in the landscape.
- This proposal fails to address the Board's previous reasons for refusal.

- They are concerned about road safety issues having regard to the proposed entrance. They consider that proposals to remedy the visibility to the west do not address the visibility to the east which is severely compromised.
- They consider that there are a number of clarification issues relative to the the drawings submitted.
- They do not oppose the development in principle but have concerns about the design and layout of the proposed dwelling and the impact on the character and amenities of the area.

## 4.0 Planning History

4.1.1. The following is the recent planning history relevant to the subject site:

- Reg. Ref. P15/313 – Clare County Council granted permission subject to conditions to Frances Shinkins for demolition, partial refurbishment of existing buildings and construction of a detached two storey dwelling, garage improvement works to existing entrance and the provision of an advanced wwts and all associated works. This was the subject of a Third Party appeal and permission was subsequently refused by the Board for the following reason:

*Under the South Clare Local Area Plan 2012–2018, the majority of the site would lie within the boundary around the Portdrine cluster. However, the southern extremity of this site would extend outside this boundary into a rural area under strong urban pressure in which new residential use is only justified on the basis of local housing need. Accordingly, the proposal would contravene these provisions and would be contrary to the proper planning and sustainable development of the area. Furthermore, the Board considered that the proposed dwellinghouse would, due to its siting, design and scale relative to the site and adjacent dwellinghouses and outbuildings, appear as over-development when viewed from public vantage points to the north on the local road that bounds the site. Accordingly, this dwellinghouse would be visually unsympathetic to its context and would seriously injure the amenities of the area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.*

## 5.0 Policy Context

### 5.1. Development Plan

The Clare County Development Plan 2011 – 2017 (CDP) shows the site as lying within a rural area under strong urban pressure and hence within an area of special control This Plan also shows the site as lying within a Section 3.7 cluster, wherein the objective is: *To ensure that clusters throughout the County maintain their existing character providing only for very small scale growth.*

As the proposal is for a new dwelling house on an infill site in the Portdrine cluster (cf. South Clare Local Area Plan 2012 – 2018 (LAP)), the following objective under Section 3.13 is also of relevance:

*That in the case of where there is a grouping of dispersed rural houses, the development of an infill site as a dwelling for permanent occupation of the applicant amongst the existing developed sites will be acceptable in principle, subject to the infill gap not being greater than 50m\* and subject to other normal site suitability considerations.*

In such circumstances where these sites occur in “Areas of Special Control” the provisions of Objective CDP 3.11 (i.e. “Local Need” requirement) will not apply.

*Where it can be clearly demonstrated that only 1 no. proposed dwelling can be accommodated between the two existing dwellings, development of a single dwelling within an infill gap of greater than 50m but less than 70m can be considered.*

Section 19.4.3 states that: *In terms of new houses in the countryside, the County Clare Rural House Design Guide should be used as a reference for applicants for planning permission.*

### 5.2. South Clare Local Area Plan 2012-2018

Map no.1 Shows that Portdrine is within the South Clare LAP area. Section 1.8 has regard to Settlement Strategy and Table 3 shows Portdrine is included in the Clusters Section. Section 4.1 refers.

Section 1.10 has a section regarding Settlement boundaries. Cratloe is one such settlement included as a large village area. The Map of Cratloe shows the land use zoning. It is noted that Portrine is located on the southern side of the N18.

### **5.3. Sustainable Rural Housing 2005**

This seeks to encourage and support appropriate development at the most suitable locations. They have regard to rural and urban generated housing and sustainable development in the countryside.

### **5.4. Code of Practice Wastewater Treatment Disposal Systems serving Single Houses**

This document (2009) by the EPA relevant to single houses (p.e <10) and replaces SR6:1991 and the EPA Manual 2000 for 'Treatment Systems for Single Houses'. The objective is to protect the environment and water quality from pollution and it is concerned with site suitability assessment. It is concerned with making a recommendation for selecting an appropriate on site domestic wastewater treatment and disposal system if the site is deemed appropriate subject to the site assessment and characterisation report. The implementation of the Code is a key element to ensure that the planning system is positioned to address the issue of protecting water quality in assessing development proposals for new housing in rural areas and meeting its obligations under Council Directive (75/442/EEC).

### **5.5. EU Water Framework Directive**

The purpose of the EU Water Framework Directive (WFD) 'is to establish a framework for the protection of inland surface waters, transitional waters, coastal waters and groundwater which:

(a) prevents further deterioration and protects and enhances the status of aquatic ecosystems and, with regard to their water needs, terrestrial ecosystems and wetlands directly depending on the aquatic ecosystems;

(b) promotes sustainable water use based on a long-term protection of available water resources;

- (c) aims at enhanced protection and improvement of the aquatic environment, inter-alia, through specific measures for the progressive reduction of discharges, emissions and losses of priority substances and the cessation or phasing-out of discharges, emissions and losses of the priority hazardous substances;
- (d) ensures the progressive reduction of pollution of groundwater and prevents its further pollution, and
- (e) contributes to mitigating the effects of floods and droughts’.

## 5.6. **EU Habitat Directive**

The aim of the EU Habitat Directive is ‘to contribute towards ensuring bio-diversity through the conservation of natural habitats and of wild fauna and flora in the European territory of the Member States to which the Treaty applies’.

## 6.0 **The Appeal**

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

6.1.1. A Third Party Appeal has been submitted by local residents Noel and Maura Conolin who reside in a dwelling opposite and north east of the proposed site. Their grounds of appeal include the following:

- They have concerns regarding the Council’s decision on this application and believe that little regard has been given to their submission and the previous decision by ABP to refuse planning permission (Ref.PL03.245167 refers).
- They consider that the scale and mass of the dwelling has not been addressed in this application in order to reduce the visual impact of the proposed dwelling. They provide that Fig.1 shows a visual representation of the comparison between the two dwellings (i.e the previous refusal).
- They are concerned about the Council granting permission in the absence of a Road Engineer’s Report. They remain concerned about restricted view to the east which is in close proximity to their entrance.



- While they note that the proposed dwelling has been redesigned they consider that it is out of character with the area and provide details on this, having regard to design and layout and fenestration proposed.
- The proposed dwelling represents an overdevelopment of this congested site and will be over bearing and overimposing relative to adjoining lower profile properties.
- They have no objection in principle to appropriate and sensitive development of the site which respects the heritage and character of the area, which they do not consider is the case in the current proposal.
- They consider that it would not relate to the concept as per the Clare CDP of cluster 'Clochans of a loose collection of rural dwellings clustered around one or more focal points.'
- They consider that the proposed dwelling could be resited and redesigned so that it could be absorbed better into the site. Perhaps an alternative site or revised design needs to be considered.
- The rear of the site is south facing and would also afford the proposed dwelling views of the estuary and would be the most opportune area to focus the bulk of this dwelling.
- They consider that the proposal remains visually unsympathetic and provide an outline of the dwelling previously refused in context of that now proposed. They consider that it must logically follow that a roof which is 3 times longer than that which was refused should also be refused.
- They note that having regard to finished floor levels only a very minor reduction in ridge height is proposed and does little to address the visual impact.
- They contend that the dwelling now proposed is even more visually intrusive and unsympathetic to the site and that the previous reasons for refusal have not been addressed.
- The current proposal does not respect the scale and style of the adjacent buildings or have any regard to the buildings on the site.

- The proposal must be considered as equally inappropriate to the previous refusal. There are some significant alterations on the revised drawings and they provide details. They were not consulted on these.
- While the applicants have moved their boundaries inside the cluster they have done little to improve the design and scale of the proposed dwelling and in some ways have exacerbated the situation by raising the floor level and increasing the length of the proposed dwelling.
- Their reference to the outbuilding which is outside the application site was made in the context of having regard to the scale and design of surrounding buildings, especially given the proximity and prominence of this outbuilding relative to the site.
- While the proposals to improve the visibility to the west are noted they do not address the visibility to the east which is severely compromised. There is a blind spot in front of the existing dwelling to the east due to the curvature of the road.
- They are concerned about traffic safety implications for the applicants and other road users, including their own family.
- They are not opposed to development in principle but have concerns about the design and scale of the proposed dwelling in relation to the pattern of existing development and the need to maintain the character of the existing settlement.
- They note other properties in the area are modest single storey properties and consider that there are several other designs that could have been considered relative to the scale and character of the site and its heritage.
- This are concerned by the Council's decision to accept revised drawings as unsolicited F.I and to grant permission on the basis of the new drawings. They note concerns in relation to the proposed roof design and height of the dwelling and in particular having regard to the revised drawings.
- They consider that fair and equitable consideration was not afforded to them and to others, in the determination of this application.

## 6.2. Applicant Response

HRA Planning, Chartered Town Planning Consultants has provided a response on behalf of the First Party. This includes regard to the locational context of the site, planning history and policy. The response to the grounds of appeal includes the following:

- The proposed development is now entirely within the designated 'Development Cluster' of the Portdrine area of Cratloe, Co. Clare.
- Consequently, the proposal does not contravene the settlement provisions of the plans and would not be contrary to the proper planning and sustainable development of the area.
- The applicant fails to acknowledge the variety of house types in the area.
- This application seeks to overcome the Board's reason for refusal and they note the reduction in site area so that the proposal is now within the Portdrine cluster.
- In terms of the stated policies and objectives as detailed in the CDP and the LAP, it is submitted that the proposed development must be deemed acceptable in principle.

### House Design

- The design approach to the development of the site links together the siting and scale of the proposed dwelling house in an inter-dependent relationship.
- Details are given of the changes to the siting and design of the house currently proposed relative to that previously refused.
- They do not consider that the proposed dwelling will appear shoehorned into the site and provide that Fig.3.0 clearly illustrates this in presenting the plot size and position of all houses surrounding the application site.
- They consider that the proposed design has been modified to address the Board's previous reason for refusal.

- The existing buildings need not be a reference point from which the site is developed. The object is to emulate the simple traditional form of the existing buildings whilst adapting to meet modern needs.
- They provide that the house would comply with the County's Rural Housing Design Guide. Figure 2.0 shows the differences between that now proposed and previously refused and Figure 4.0 shows that difference in siting.
- They consider that the house is satisfactorily positioned, removed from the boundaries of the site and with adequate circulation space to ensure that overdevelopment does not occur.
- They submit that the proposed development is not out of character with the area, does not represent an overdevelopment of the site and does not necessarily have to be single storey in design to facilitate its integration into the site and the wider landscape.

#### Visual Impact

- Consideration of views to the south are limited to the view from the public road frontage. They provide that the proposed dwelling is lower in height than that previously refused.
- The proposed development is in keeping with the character and scale of dwellings in proximity in particular those houses located to the west.
- Due to the varying topographical nature of the land in the vicinity of the site, the neighbouring single storey structure to the east sits well above the ridge height of the proposed dwelling.
- It is submitted that a holistic approach must be undertaken inclusive of all the revised design elements.
- They consider that the contiguous elevations submitted are significant and demonstrate that the proposed dwelling is capable of being assimilated into the landscape, particularly when viewed from the local road, and that no adverse visual impacts occur.

### Pattern of Development

- The established character of the area is dominated by housing on both sides of the local road with house types of various size, design and quality. They refer to Figure 3.0 which demonstrates the varied nature of house design in the area and the significant two storey house to the west.
- The Portdrine Cluster is defined by an extensive cluster of linear form housing. There is no stated policy objection to the construction of a two storey house at this location relative to the pattern of development in the area.
- They provide that the proposed development can sit comfortably with the existing outbuildings and adjacent house adjoining to the east.

### Traffic Safety & Entrance

- They note that the Inspector's recommended reason for refusal as regards access was not supported by the Board and was omitted in their reason for refusal.
- The site is located on a third class road within the 50km/h speed limit and is an infill site surrounded by numerous residential dwellings. This ensures that the traffic speed is slow.
- They note that it is proposed to widen the existing access arrangement which will increase the sightlines and visibility for traffic merging from the site.
- They consider that the proposed changes and the low speed limit ensures a safe and visible entrance into the site, which is unlikely to result in traffic hazard.

### Clarification of Drawings

- They consider that the unsolicited F.I submitted is insignificant particularly in that it was only the contiguous elevation that required correction as all other drawings contained the correct information. They also refer to some modification to the eastern elevation.
- The submission of correct contiguous elevation drawings during the planning application process ensured that the appellant had the opportunity to

comment on them during the course of the appeal and accordingly the appellant and the appeal submission has not been compromised.

### Conclusion

- They consider that the proposed development is compatible with the local area and its surroundings and to the Portdrine Cluster.
- The drawings in particular the contiguous elevation demonstrates that the proposed development can be assimilated into the local landscape, particularly when viewed from the local road.
- They request the Board to uphold the Council's decision and to grant permission for the proposed development.

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

- 6.3.1. They are satisfied that the application was processed and assessed in accordance with the Planning and Development Act and associated regulations. They consider that the development as granted by the P.A has addressed the previous reasons for refusal by ABP.

### **6.4. Further Responses**

- 6.4.1. The Third Party's response to the First Party response includes the following:
- They recognise there are a number of different house types within the cluster of Portdrine. However they consider that the scale, shape, topography and layout of the site have a huge impact on the ability of the site to absorb development.
  - While a single storey dwelling can sit comfortably on the site adjacent to the single storey dwelling to the east the same cannot be said for a two storey dwelling.
  - The specifics of this site with the adjacent buildings is of pertinent consideration.

- They consider that the applicants have failed to address the scale and design of the dwelling and have not modified the design in a manner which would alleviate the previous refusal by the board.
- They contend that the proposed dwelling would appear as an overdevelopment of the site due to siting design and scale relative to the site and the adjacent dwelling houses and outbuildings.
- This land is low lying and will not aid the assimilation of the development into the site.
- The dwellings to the east are more vulnerable from a visual perspective.
- The applicants have not responded to the natural topography and a split level dwelling would have less of a visual impact.

#### House Design

- They renew their assertion that the proposed dwelling is ‘shoe-horned’ into the site. Pulling the house forward has worsened this.
- The comparative scale of the proposed dwelling relative to its position on the application site clearly demonstrates the congested nature of the site.
- There is concern that the new buildings will stand out as significantly larger than those on site and will be visually more prominent in the landscape. This concerns both views from the public road and from the Shannon estuary to the south.

#### Visual Impact

- The overall height of the proposed dwelling, coupled with its visual impact must also be recognised and given due consideration. The reduction in height is marginal and alterations to the design proposed will not offer a significant improvement over that previously refused.
- They provide a visual representation of this and are concerned there is no break in the roofline and that this and the scale and massing of the design now proposed does not represent an improvement to that originally refused.
- Contiguous elevations do not give a complete picture in demonstrating the relative size of the dwelling. In reality the dwelling would be viewed in 3

dimensional form. They include a photo Fig. 2 to show that the two storey dwelling will be very visible in the landscape.

#### Pattern of Development

- They do not agree that the dwelling house can sit comfortably with the existing outbuildings and the dwelling house to the east.
- Minimal separation distance achieved to the boundaries all point towards a congested, over-developed site relative to the chosen dwelling design and this is completely out of character with the building to the east.

#### Traffic Safety & Entrance

- They note that despite speed limits this can be a busy road and that there have been traffic accidents in the past 5 years.
- They consider that the entrance is in a dangerous location and that visibility is restricted and sight distances are not sufficient.
- They note that there is no room for overtaking.
- They note that the Inspector in the previous Report had concerns about the safety of the entrance and this further warrants serious consideration.

#### Clarification of Drawings

- They provide a description of the changes made as part of the unsolicited F.I. and consider that the changes made in 5no. drawings as submitted are very significant.
- Due process should have been followed and revised Public Notices submitted. All members of the public should have been afforded the opportunity to comment on the significantly revised drawings.
- They provide that this is the second instance in which Clare County Council has granted permission on this site on the basis of ambiguous drawings, despite these anomalies being pointed out during the submission stage of the planning process.



## 7.0 Assessment

### 7.1. Principle of Development

7.2. Regard is had to the the South Clare Local Area Plan 2012-2018. Section 4.1 includes Portdrine as a designated 'Development Cluster'. It is provided that the proposed development is now within a reduced site area so that it is entirely within the cluster, is an infill development and the local needs policy relative to the Rural Area Under Strong Urban Pressure does not apply in this 'Area of Special Control' Objective 3.11 of the Clare CDP 2011-2017. In this respect Section 4.0 of the South Clare LAP provides: *To meet the needs of those wishing to settle in rural areas, the provisions of objective CDP 3.11 (i.e Local Need requirement) of the Clare CDP 2011-2017 will not apply with cluster boundaries.*

7.2.1. Section 3.7 of the CDP provides: *To ensure that clusters throughout the County maintain their existing character providing only for very small scale growth.* Regard is also had to Objective 3.13 which has been quoted in the Policy Section above. It is noted that in this case the infill gap is less than 50m, so the concept of a single dwelling can be considered.

7.2.2. The Third Party are concerned about the scale and character of the proposed development and consider that it will constitute an overdevelopment of this restricted site. They consider that this proposal fails to address the reasons given for refusal in Reg.Ref.P15/313 in relation to the scale of the proposed building in the context of the site and adjacent buildings and must be considered equally inappropriate as the previous proposal. The proposed development is sited on a restricted site area with limited site frontage and the scale and design of the dwelling should reflect this. They have also concerns regarding assimilation into the environment, lack of visibility at the entrance and that adequate sightlines are not available.

7.2.3. Regard is had to the documentation submitted and to the issues raised. The issue in this case is whether this proposal would constitute sustainable development, would not be detrimental to the amenities of the area and whether the reasons of the Board refusal in Ref. PL03.245167 would now be overcome.

### **7.3. Procedural issues**

- 7.3.1. The Third Party have raised concerns about procedural issues and regard is had to the Planning and Development Regulations 2001-2016. They provide that the acceptance by the Planning Authority of the revised drawings as unsolicited information, remains in their view an abuse of the proper planning procedure and they consider that this has infringed their right to due process. They were not consulted on these significant revisions, which should have required a new public notice. Crucially permission was granted on the basis of these revised drawings despite members of the public not having an opportunity to comment on them. They consider that the planning system has not been equitable, transparent and rigorous in this case.
- 7.3.2. These concerns have been noted and I am of the opinion that this is a procedural matter for the P.A. to address, a determination on whether the P.A decision is valid or not, would not be appropriate to make here. However it must be noted that this application is now being considered on its merits de novo by the Board. Regard is being had to all of the documentation submitted in the assessment of this case.

### **7.4. Differences between the current proposal and that previously refused.**

- 7.4.1. In this case it is provided that the applicant owns a total of 2.7ha of land at this location extending southwards towards the River Shannon, the application site has a stated area of 0.19ha. The Site Layout Plan in the previous application showed a site area outlined in red of 0.237ha. However in view of the local needs issue, that was an issue in the Board's reason for refusal, it is now provided that the application site area has been reduced and is now entirely within the designated Portrine Cluster.
- 7.4.2. The application form provides that 107sq.m of buildings on site are to be demolished and the proposed floor area of the new house is given as 241.3sq.m. The Site Layout Plan shows the proposed setback of c.34.7m from the public road. This is to be more in line with the more modern two storey house to the west. A five bedroomed house two storey house is proposed.
- 7.4.3. This differs from the previous proposal where the two storey five bedroom dwelling was shown further set back i.e c.38 from the road and 254sq.m in floor area. In that case it was considered that the proposed design was relatively suburban and the

siting, design and scale would be an overdevelopment of the site. The First Party's response to the appeal provides that the proposed design has been modified to address the concerns of the Board in their previous assessment. In this respect Figure 2.0 of their response shows the difference in house type and Figure 4.0 shows the difference in siting.

- 7.4.4. I would consider that the siting now proposed is preferable in that it corresponds more to that of the dwelling to the west. However as noted in the Third Party concerns its relationship with the lower profile more traditional buildings to the east also needs to be considered. Regard is also had to the contiguous elevations submitted. The County Clare Rural House Guide advocates the use of vernacular forms which with respect to roofscape would not include fully hipped gables but straight ones. This is the case with the revised house type.

#### **7.5. Regard to issues concerning the House Type**

- 7.5.1. The Third Party response notes that the reduction in height to that previously refused is marginal. Also that as shown on the diagrams they have submitted it will have a significantly greater visual impact than the hipped roof previously proposed as demonstrated visually in their appeal. They consider that there is no break in the two storey section of the roof as it has all the same ridge height and this does little to break up the scale and mass of the dwelling. They note that the ridge length of the two storey element is considerably larger than that previously proposed and that it does not represent a visual improvement.
- 7.5.2. It is submitted that the contiguous elevations showing the impact of the proposed revised design are significant. They have concerns about the revisions made in the unsolicited F.I submitted in particular relative to increase in floor levels and consider that an increase of 773mm in height from the drawings originally submitted is significant. They note that the ridge height has changed from 24.990m (23/06/16) to 25.763m (04/08/16). They also note that the first floor plan and elevations have been modified with windows removed and alterations to the elevational treatment of the dwelling.
- 7.5.3. The First Party provide that these drawings submitted on (04/08/16) provide that the ridge height of the proposed dwelling, and the buildings to the east and west are now

shown correctly. The information submitted related to the contiguous elevations and sought to correct the proposed ridge level of the dwelling i.e. now shown as 25.763m based on a F.F.L of 18.146m and a height of building above the F.F.L of 7.61m. Also that these drawings and in particular the contiguous elevations demonstrate that the proposed development is capable of satisfactory assimilation into the local landscape, particularly when viewed from the road. The revised drawings show that two windows have been removed from bedrooms to the east gable. This would lessen any potential overlooking.

- 7.5.4. It is of note that as shown on Figure 4.0 of the First Party appeal, the house now proposed is to be sited closer to the western boundary. While it appears more traditional in form the front and rear elevations are longer than that previously submitted particularly taking into account the set back 2 storey element. To reduce the overall impact of the bulk and mass of the house, I would recommend that if the Board decide to permit that it be conditioned that the first floor of the two storey set back element be omitted, and that this be single storey only and that there also be no first floor windows in the western elevation.

## 7.6. Impact on the Character and Amenities of the Area

- 7.6.1. Section 19.3 of the Clare CDP 2011-2017 refers to the Design Process. This includes: *In urban areas, it is mainly buildings which shape the environment, while in the countryside, buildings form part of a rural landscape. Whether a building or development is set in an urban or rural context, it has the opportunity to enhance that environment.* Regard is also had to the County Clare Rural House Design Guide i.e *The success of the building will be its ability to merge with the surrounding landscape whilst illustrating sustainable design, innovative use of context, site layout, building mass and form, materials, energy management, space heating, landscaping, passive design, plan design and finish.*
- 7.6.2. The Portdrine Cluster is defined by extensive and relatively un-cordinated one off housing extending on both sides of the local road. It does not particularly present a traditional rural area or a strong sense of place. While some of the houses are older and more traditional single storey, there is also a variety of house types. It is not considered that other than representing a linear cluster of houses along this local road that the area has any particular defined vernacular character.

- 7.6.3. The site is brownfield in nature and presently accommodates a number of derelict buildings. Section 4.0 of the South Clare LAP 2012-2018 notes: *Designated clusters are the smallest type of settlement in the hierarchy and the character of these areas reflects traditional clocháns of a loose collection of rural dwellings clustered around one or more focal points.* It is considered that these buildings form a loose collection of out buildings. Plans showing these buildings were included with the previous application. However they are not habitable and are of no particular architectural merit. I would have no objection to their removal.
- 7.6.4. The existing dwelling and out building to the east are traditional vernacular buildings with a room deep pan. The Third Party considers that the proposed storey and half dwelling by virtue of its scale and design is unsympathetic to the existing and adjacent vernacular. They make reference to the stone sheds and single storey more traditional dwelling to the east. They consider that the lower profile dwellings to the east should have greater consideration due to their vulnerability from a visual perspective, rather than the two storey dwelling to the west. Also that the applicants have not responded to the natural topography in their design which could have utilised a split level to relate to the site and mitigate against the visual impact of the proposed dwelling.
- 7.6.5. However there are a variety of house types in the area. It is noted that the dwelling to the west is a large two storey dwelling, set back from the road. This has a sizeable stone wall front boundary and splayed and gated entrance to the local road. Furthermore there is a significant dormer bungalow on the opposite side of the road to the north east. It is not considered that there needs to be a more rigid adherence to the low profile of the existing now derelict traditional buildings on site. However it is considered important that the design and layout of the proposed development should not detract from and should contribute to its setting.
- 7.6.6. The First Party response refers to Figure.3.0 which they consider clearly illustrates the plot size, and position of all the houses surrounding the subject site. They submit to the Board that the position follows an established pattern of development in the area. They submit that the drawings and in particular the contiguous elevation comprehensively demonstrates that the proposed development will be on a lower level than the dwelling to the east and is capable of satisfactory assimilation into the

local landscape, particularly when viewed from the local road, such that no visual impact occurs.

- 7.6.7. It is noted that the Third Party is concerned that any new buildings which are significantly larger than the existing will stand out as a prominent change in the existing landscape both when viewed from the road and from the Shannon estuary shore to the south of the site. It is considered that this maybe the case, although while the restrained narrow frontage of the site offers more of a challenge than a site with a larger road frontage, it along with the lower level of the proposed siting will provide less visibility from the road – the contiguous elevations refer. It is also considered that the impact of the southern elevation, on distant views from the Shannon estuary will not be compromised as the proposed dwelling will be seen within the context of the other houses in the Portdrine Cluster.
- 7.6.8. It is therefore considered that the revised house type is preferable in this location than that previously refused. Also that the amendments proposed to the design as noted above will reduce its overall bulk and massing in the landscape. It is not considered that it will detract from the residential or visual amenities of the area.

## 7.7. Access

- 7.7.1. The site is currently accessed for agricultural purposes off the local Portdrine Road. The access point would be retained and improved under the current proposal. The local road in the vicinity has a meandering horizontal and vertical alignment. Forward visibility to the east is restricted by an existing stone shed, which is outside of the application site boundary. There is also a blind spot in front of the existing dwelling to the east due to the curvature of the road. To the west it is restricted by the boundary stone wall of the property to the west. Therefore the existing access has restricted visibility and this is a particular issue when exiting the site. In view of the ribbon development along this road, some of the entrances are not co-ordinated, relative to external finishes/ boundary treatment and sightlines.
- 7.7.2. It is of note that the drawings showing the proposed improvement to the access are as shown on the previous appeal PL03.245167 drawing no.101 A2 refers. These improvements relate to an upgrading and set back of the existing entrance. It also provides that the existing splayed wall of the adjoining property to the west side is to

be reduced in length in order to provide an improved sightline in the western direction which will be beneficial to both properties. However in view of the forward location of the shed to the east, sightlines cannot be improved in this direction.

- 7.7.3. The Third Party's concerns regarding traffic safety are noted. They also note the incline up to the level of the road from the proposed site, and that there is a lack of clarity in the current proposals as to whether the proposed driveway will be brought to match road level to increase visibility and aid the ease of exit from the proposed site. The Planner's Report in the current application provides that this can be dealt with by condition. They provide that having regard to the low operational speed limits on this road, that they do not consider that the proposed entrance will result in a traffic hazard.
- 7.7.4. The First Party response notes that the Board did not previously support a reason for refusal on traffic safety grounds relevant to the access. They also refer to the drawing showing the proposed revisions to the access submitted as part of the previous application. It is noted that the proposed development is to be accessed via an existing upgraded access via a third class road within the 50kph speed limit, so operational speeds are low.
- 7.7.5. The Inspector's Report in PL03.245167 had concerns relative to sightlines. Reason no.3 of their recommendation recommended refusal on the grounds of substandard sightlines, traffic hazard and endangerment to public safety. However it is of note that the Board did not include this reason in their refusal. In view of these issues I do not consider that it would be appropriate to include this as a reason for refusal in this case.

## 7.8. Drainage

- 7.8.1. The subject application is accompanied by a completed Site Characterisation form. This form concludes that the site is suitable for the installation of a packaged waste water system and a polishing filter, which would discharge to groundwater. However as the water table is at a depth of only 1.3m, a slightly raised mound would be required in which to install the polishing filter so as to ensure that a depth of 1.5m can be achieved in accordance with the EPA's relevant Code of Practice. It is also provided that the resulting mound can be landscaped into the site.

- 7.8.2. It is provided that the soil polishing filter shall be located at the rear (South) of the site >3.0m from any site boundary. The natural slope of the site which is downwards from the road will facilitate drainage. It is provided that all works are to comply with the EPA Code of Practice 2009 – Wastewater treatment and disposal system serving single houses. Table B.3. recommends minimum distance between a receptor and a percolation area or polishing filter.
- 7.8.3. It is noted that this proposal differs from the previous proposal in that the overall site area has been reduced from 0.237ha to 0.19ha. Details showing the proposed layout of the polishing filter are not shown on the current plans in the way they were shown on the Site Layout Plan accompanying the former application. However as shown on the Site Location Map submitted these lands are within the associated landholding.
- 7.8.4. As concluded in the previous Inspector's Report it is concluded that provided the proposed waste water treatment system and polishing filter are properly installed and constructed and thereafter maintained, the proposed dwelling house would be capable of being satisfactorily drained with respect to waste water.

#### **7.9. Appropriate Assessment issues**

- 7.9.1. The site is located c.1 km north of the Lower Shannon SAC (003165) and the River Shannon and the River Fergus SPA (004077). Between the site and these Natura 2000 sites lie a series of wet ditches that drain the lowering lying land alongside the River Shannon.
- 7.9.2. A potential source/pathway/receptor route exists between the site and these Natura 2000 sites. Thus, during the construction phase, materials/liquids could enter the ground water and pass into these ditches and on into the River Shannon. Likewise, during the operational phase, pollutants from the polishing filter could follow the same route. Nevertheless, provided good construction management practices are pursued and the polishing filter is properly constructed and maintained, the risk of any significant effects on the Conservation Objectives of these Sites would not arise.
- 7.9.3. Having regard to the nature and scale of the proposed development, the nature of the receiving environment, and the proximity of the nearest Natura 2000 sites, no Appropriate Assessment issues arise and it is not considered that the proposed



development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

## 8.0 Recommendation

8.1. It is recommended that permission be granted subject to the conditions below.

## 9.0 Reasons and Considerations

9.1.1. Having regard to the nature and scale of the proposed development, to the character and pattern of existing development in the Portdrine Cluster and to the planning history of the site, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities or other amenities of the surrounding area, would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 4th day of August 2016 and by the further plans and particulars received by An Bord Pleanála on the 29th day of September 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

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

2. The proposed development shall be amended as follows:
  - (a) The recessed first floor element shall be omitted, and this recessed element shall be single storey only.

(b) There shall be no first floor windows inserted in the eastern or western elevations.

Revised drawings showing compliance with these requirements shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

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

3. (a) The external wall finishes of the proposed dwelling shall be nap plaster, dry dash and/or natural stone, unless otherwise agreed in writing with the planning authority.

(b) The roof of the dwelling shall be of a blue/black, black or dark grey colour (including ridge tiles).

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

4. (a) The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.

5. The proposed recessed entrance to the public road, including gradients, wing walls, front boundary treatment and surface water arrangements, shall comply with the detailed standards of the planning authority for such works.

**Reason:** In the interest of amenity and of traffic and pedestrian safety.

6. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 23rd day of June, 2016, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submission shall be installed unless agreed in writing with the planning authority.  
(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.  
(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwelling house and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.  
(d) Surface water soakaways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.  
(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

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

7. All service cables associated with the proposed development (such as electrical, television and telecommunications) shall be run underground within the site. The existing public service utility poles along the site frontage, and within the sightlines from the proposed entrance, shall be removed, and the

associated cables undergrounded across the site frontage, as part of the site development works.

**Reason:** In the interest of visual amenity and of traffic safety.

8. The construction of the development shall be managed in accordance with a Construction Management Plan, which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This plan shall provide details of intended construction practice for the development, including:
  - (a) Protection measures for the stone buildings adjoining the eastern boundary;
  - (b) Hours of working;
  - (c) Details of appropriate mitigation measures for noise, dust and vibration;
  - (d) Off-site disposal of construction and demolition waste, and
  - (e) Measures to prevent the spillage or deposit of clay, rubble or other debris on the public road network.

**Reason:** In the interest of amenities, public health and safety.

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

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

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Angela Brereton  
Planning Inspector

8<sup>th</sup> of December 2016