



An
Bord
Pleanála

Inspector's Report PL03.248695

Development	Construction of a dwelling with onsite wastewater treatment and a garage
Location	Tullamore, Kilshanny, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	P17/50
Applicant(s)	Mark & Deirdre Carroll
Type of Application	Permission
Planning Authority Decision	Refusal
Type of Appeal	First Party
Appellant(s)	Mark & Deirdre Carroll
Observer(s)	None
Date of Site Inspection	17 th of August 2017
Inspector	Angela Brereton

1.0 Site Location and Description

- 1.1.1. The subject site is located in the rural area that is approx 1.5km south west of the N67 and the settlement of Kilshanny. It is an elevated site that is accessed from a private roadway serving a number of dwellings and a farmyard. The roadway joins the public road network 350m east of the site at Aughyvackeen Bridge (LP1046 local primary road). The local road network is narrow and undulating. It is a greenfield upland site which slopes downwards in a south easterly direction.
- 1.1.2. To the north west of the site and uphill from same is an existing bungalow type dwelling and farmyard. There is a surfaced parking area in front of this dwelling which is occupied by the applicant and his family. Downhill from the site (c.110m to the south east) is a storey and a half style dwelling. There is a row of mature deciduous trees along the northern boundary of the site (i.e along the field boundary). The site has a commanding view of the area and medium to long range views are available to/from the site from the south west through to the east.

2.0 Proposed Development

- 2.1.1. Permission is sought to construct a dwelling with onsite waste water treatment system and a garage on the subject site at Tullamore, Kilshanny, Ennistymon.
- 2.1.2. The application form provides that the area of the site is 0.25ha in a 43ha farm (note is section 3 of the form this is given as 41ha). The g.f.s of the house is 280sq.m and of the garage is 23sq.m.
- 2.1.3. It is provided that this is a site on the family farm, and the applicant's occupation is as a farmer.
- 2.1.4. Details of the proposed onsite treatment system have been submitted along with a Site Characterisation form. This notes that the existing farmhouse is c.20m to the north and the applicant's sister's house c.200m to the east. It is proposed to connect to a private well.

3.0 Planning Authority Decision

3.1. Decision

On the 19th of May 2017, Clare County Council refused permission for the proposed development. Their reasons for refusal are as follows:

1. The proposal site is located in a rural area where Development Plan Objective CDP3.12 *New Single Houses in the Countryside outside the Areas of Special Control* of the Clare CDP 2017-2023 is applicable. It is an objective of the P.A in these areas to *permit an application for a single house by persons who seek a dwelling as their principal private residence*. Having regard to the nature of the proposed development and noting that the applicants own a dwelling house immediately adjacent to the proposal site the PA considers that the applicants do not comply with the criteria as set out in CDP3.12 of the DP. Accordingly, the proposed development would materially contravene an objective of the CCDP 2017-2023, and would conflict with the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, 2005. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.
2. Having regard to the views available towards the site, and the height, bulk, scale and massing of the dwelling proposed on this elevated and exposed site, the PA considers that the proposed development would constitute a visually obtrusive feature in the landscape that would be visible over a wider area. The proposed development would therefore seriously injure visual amenities of the area and would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planner's Report

The Planner had regard to the locational context of the site in the rural area, planning history and policy. They had concerns about siting, design and layout and considered that the proposed development would constitute a visually obtrusive feature in the landscape and would be detrimental to the visual amenities of the

area. They noted that CCDP 2017-2023 Objective CDP3.12 is applicable and requested Further Information to include the following:

- They had concerns pertaining to the demonstration of compliance with Objective CDP3.12 and requested the applicant to submit documentary evidence which support of the reasons for construction of a new dwelling.
- Details of the wider landholding in the area and of possible alternative sites.
- Where no alternative site is available they are advised to submit drawings showing revisions to the design incorporating a significantly reduced height and scale in order to reduce the visual impact of the development on the wider area.
- Revisions to the proposed dwelling and to consult the *Clare Rural House Design Guide*.
- North/south and east/west cross sections to demonstrate the level of excavation and infilling works required for the proposed dwelling.
- A landscaping plan for the proposed development to also outline the proposed treatment of any graded embankments within the site.
- A revised Site Layout Plan which demonstrates the finished floor levels of the proposed dwelling and garage relative to the existing adjacent structures.
- They were advised to show the location of the existing well.

3.2.2. Further Information Response

Michael J. Duffy submitted a response on behalf of the applicant to include the following:

- Documentary Evidence in support of the application.
- Details regarding issues with the condition of the existing house and they include drawings.
- The proposed location was selected with respect to available screening, proximity to agricultural buildings, minimising the impact on pasture and existing infrastructure.
- The applicants no longer request to construct a garage.

- The proposal would comply with CDP3.8. The applicants have taken cognisance of the carrying capacity and environmental sensitivity.
- The provide details on family ties to the area and the family farm enterprise.
- While alternative sites on the landholding were considered in detail and they consider that the subject site has more merit and provide details of this.
- The revised proposal reduces the ridge height and they provide details on this and the landscaping proposal.
- They have had regard to the advice given in the *Clare Rural Housing Design Guide* to include relative to siting, scale, design and layout and landscaping.
- Details are provided relative to the location of the on-site well.

Regard is had to planning policy relative to rural housing in the CCDP 2017-2023. This includes regard to replacement of substandard habitable houses in the countryside and to tourism developments and tourist facilities.

They have also submitted the following :-

- A letter is included from ARQTECH Laboratories regarding water quality – well analysis results.
- A Comprehensive Landscape Design Plan.
- Sections and Contiguous Views and photographs.

3.2.3. Planner's response

The Planner had regard to the F.I submitted. They note that details of the wider landholding have not been submitted. They consider that the applicants have outlined justification for residing in close proximity to the existing dwelling. They note that the applicants outlined structural issues with their existing build to provide that the existing dwelling is not considered to be of sufficient architectural merit to warrant its retention. Also, that the development description makes no reference to the replacement of the existing dwelling with a new dwelling. The red line boundary does not include the existing dwelling and the proposed landscaping is for the most part outside the boundaries of the site. They consider the proposed alterations to the design of the proposed dwelling relative minor. Therefore, whilst the principle of replacing the existing dwelling may be acceptable (subject to a new application),

having regard to the development description and the red line boundary they provide that this is beyond the remit of this planning application. Having regard to the limitations on the existing application arising from the development description and the red line boundary, they consider that planning application should be refused and provide reasons for this as noted above.

4.0 Planning History

- 4.1.1. The Planner's Report provides that there is no planning history pertaining to the subject site.
- 4.1.2. Reg.Ref.03-721 – Permission was granted by the Council subject to conditions for the construction of a dwelling house and sewerage treatment system. This is to the south east of the subject site and is described as the applicant's sister's house.

5.0 Policy Context

5.1. Clare County Development Plan 2017-2023

This sets out the overall strategy for the proper planning and sustainable development of the functional area of Clare County Council over a 6year period. It replaces the CCDP 2011-2017. The objectives below have regard to Settlement and Rural Housing objectives and include those referred to by the First Party.

Chapter 3 deals with Urban and Rural Settlement Strategy. *The aim of the Settlement Strategy is to ensure that future development is directed in a balanced plan-led manner to rural and urban areas throughout the county as appropriate.*

Section 3.2.5 refers to Single Houses in the Countryside and sets out how single houses will be accommodated in the rural areas outside of the boundaries of the towns, villages and clusters. A distinction is made between rural generated housing and urban generated housing. Regard is also had to the Sustainable Rural Housing - Guidelines for Planning Authorities (DoEHLG). These Guidelines constitute Ministerial Guidelines under Section 28 of the Planning and Development Act 2000 (as amended).

The subject site is located in the countryside. Map B of the CCDP shows the Settlement Hierarchy and Map D Areas of Special Control. The application site is in the rural area outside these areas. Objective CDP 3.12 refers to Rural Housing outside Areas of Special Control.

CDP 3.8 seeks: *To ensure that the countryside continues to play its role as a place to live, work and visit having careful regard to its carrying capacity and environmental sensitivity.*

The site is not located in a rural area under strong urban pressure so local needs policy does not apply. It is provided that in rural areas that are structurally weak or with a strong agricultural economic base the key objectives of the Council are:

a) To accommodate demands for individual permanent residential development proposals as they arise subject to satisfactory site suitability and technical considerations,

b) To maintain and strengthen existing towns and villages. This is articulated in Section 3.2.2 of this chapter.

CDP3.12 refers to New Single Houses in the Countryside outside the 'Areas of Special Control' i.e Outside Areas of Strong Urban Pressure, Outside of Heritage Landscape, not accessed from a scenic route i.e:-

To permit an application for a single house by persons who seek a dwelling as their principal private residence and will, therefore, contribute to the social and economic well being of the area.

Note: Where the proposed site is accessed from a National route or certain Regional routes the proposal must in addition to compliance with this objective, also be subject to objectives CDP8.4 and CDP8.5 as set out in Chapter 8.

All development proposals must be in compliance with the requirements of the Habitats Directive.

CDP3.14 refers to Replacement of Substandard Habitable Houses in the Countryside and provides that it is an objective to permit the demolition of a substandard, habitable house, a house damaged by fire, flood or other natural disaster subject to normal site suitability considerations etc, and includes:

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; Notwithstanding the above, it is Council policy to protect the county's vernacular building stock from demolition where restoration and extension is an option ..

CDP3.16 provides it is an objective: *To not permit new single holiday homes in the countryside and to direct this type of development to appropriately zoned land within certain settlements. Alternatively, this need can be met through the second hand housing stock in the countryside or the refurbishment of derelict dwellings/structures.*

Table 3.1 refers to types of Rural Housing Development allowed on suitable sites. This includes: *For new single dwellings outside area of special control a condition shall be attached requiring the dwelling to be a permanent/principal private residence but with no restrictions on the resale after first occupancy.*

Section 3.2.6 refers to Site Suitability and includes that other considerations relate to siting, design, environment, heritage, amenity and traffic considerations are also of paramount importance in the consideration of any development.

Section 6.3.12 refers to the Re-use of Brownfield Sites and provides that the possibility of re-using old or disused buildings and lands for new employment generating enterprises will be encouraged. CDP6.15 refers.

Section 6.3.16 refers to the importance of Agricultural Development and

CDP6.19 seeks to: *a) To facilitate and encourage the development of alternative farm enterprises, agri-tourism projects and farm shops on agricultural lands subject to compliance with appropriate planning and services requirements;*

b) To facilitate and encourage the re-use of redundant farm buildings of vernacular importance for appropriate agri-tourism enterprises subject to compliance with appropriate planning and services requirements.

Section 6.3.17 refers to the importance of Rural Enterprise in sustaining rural populations and provides that proposals for small scale enterprises in rural areas will be considered on their merits. Objective CDP6.20 seeks to support rural enterprise and the rural economy including by: *a) Permitting the development of rural resource-based industries in rural areas subject to compliance with appropriate planning and services requirements; b) Supporting and facilitating proposals for new small-scale rural enterprises or extensions to existing small-scale, rural based, indigenous*

industries subject to compliance with appropriate planning and services requirements;

Section 6.3.23 refers to Tourism Developments and CDP6.26 seeks: *To harness the economic potential of tourism throughout the county.*

Section 8.4.3 refers to Wastewater Management. Objective CDP 8.27 includes:

c) To permit the development of single dwelling houses only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the 'Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses EPA (2009)';

Section 13.3.2 refers to Living Landscape Types, Map 13.1 and Objective CDP 13.2 refers to Settled Landscapes and this includes: *That the site has been selected to avoid visually prominent locations.* Section 13.3.2.3 refers to Heritage Landscape Character Areas in County Clare.

Section 13.5 refers to Views and Prospects and includes Designated Scenic Routes.

Section 13.6 to applications for Single Houses in the Countryside i.e: *Planning applications for single houses in the countryside in areas that are designated as Heritage Landscapes or are accessed off Scenic Routes must also comply with objective CDP3.11 of this Plan.* It is noted that as shown on Map C the site is outside of the Heritage coastal landscape.

Section 14.3.2 supports the conservation and preservation of the Natura 2000 sites.

Objective CPD 14.2 refers. Section 14.3.3 refers to Appropriate Assessment.

Objective CPD 14.3 refers. Section 14.3.4 refers to Natural Heritage Areas and

Objective CPD 14.4 seeks to support the protection and conservation of these.

Objective CDP 14.17 refers to the Protection of Trees, Woodlands and Hedgerows.

Appendix 1 contains the Development Management Guidelines. Section A1.3.1 refers particularly to Rural Residential Development. This has regard to Siting and Design, Road Frontage, Plot Size and Wastewater treatment systems.

Section A1.9.2 refers to Sight Distances.

5.2. **The Sustainable Rural Housing Guidelines 2005**

This seeks to encourage and support appropriate development at the most suitable locations. Section 3.2.3 concerns Rural Generated Housing and gives an example of Persons who are an intrinsic part of the rural community and Persons working full-time or part-time in rural areas.

Section 3.3 is concerned that the consideration of individual sites will be subject to normal siting and design considerations. These include the following:

- Any proposed vehicular access would not endanger public safety by giving rise to a traffic hazard.
- That housing in un-serviced areas and any on site wastewater disposal systems are designed, located and maintained in a way, which protects water quality.
- The siting of the new dwelling integrates appropriately into its physical surroundings.
- The proposed site otherwise accords with the objectives of the development plan in general.

Section 4.4 is concerned with Access and restriction of such on National Primary and Secondary Roads. Regard is also had to Roadside Boundaries Section 4.5 is concerned with Protecting Water Quality and Site Suitability issues.

5.3. **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).

5.4. 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'.

5.5. 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. Michael J. Duffy Chartered Civil Engineer submitted a First Party Appeal on behalf of the applicants Deirdre and Mark Carroll. This includes the following:

- The refusal is primarily based on a misinterpretation of the CCDP or an overly rigid application of it in a manner which could not have been intended by the elected members. The appellants clearly conform to the requirements of the CDP3.12. The proposed dwelling is to be the family's principal private residence given the circumstances presented to the P.A.
- The design of the proposed dwelling was achieved with reference to the principles in the Clare Rural House Design Guide. The appellants believe that the proposal will not impinge on mid or long distance views towards the site. The proposed dwelling is lower than the existing dwelling and is well screened by the existing dwelling, farmyard and existing mature trees. Additional screening to the front was included to mitigate any perceived exposure.
- They note that the PA accepts that CDP3.14 for the replacement of a sub-standard house is acceptable and provide that this is exactly what is proposed.
- They consider the prerequisite to demolish the existing dwelling is unreasonable and note that the family needs somewhere to live while the new house is being constructed and there is a farm to manage.
- Alternatives were considered after receiving the unsustainable tenders for renovation works. They provide that the replacement of the existing house footprint is an unreasonable interpretation of CDP3.14. It has often been the case that a substandard house is replaced on a landholding without demolition and on a different footprint. There is nothing in the CDP to preclude this.
- The applicants are entitled to seek to construct a house as their principal private residence in accordance with CDP 3.12. They consider that this could be a condition of the permission as is the norm in such cases.
- While there is no current plan for the future use of the existing house it should be clear that it is not going to be sold or occupied as a permanent residence.
- The existing sub-standard dwelling forms no part of this planning application and is not viable to renovate as a domestic dwelling.

- They provide that an agri-tourism use for the existing house could be considered in a future application. They note Objectives CDP6.15 and CDP6.19, relative to redevelopment and alternative farm enterprises.
- They also have regard to objectives CDP6.20 and CDP6.26 relative to rural enterprise and the economic potential of tourism.
- They consider that the proposed design will not impact on views or visual amenity.
- They do not consider that this application is in contravention of the CCDP 2017-2023. In the event that the Board concurs with the interpretation of the PA they ask the Board to use its discretion to facilitate this application given the particular material circumstances relating to this appeal.
- The applicant's desires that the confidential details and information provided as F.I in the application to be provided to the Board.

6.2. Planning Authority Response

- 6.2.1. Clare County Council's response to the grounds of appeal includes that they do not consider that the issues have been addressed in the First Party grounds of appeal. They request the Board to refuse permission and state the Council's two reasons for refusal.

7.0 Assessment

7.1. Principle of Development and Planning Policy

- 7.1.1. Regard is had to the Clare County Development Plan 2017-2023, which is now the relevant plan. Table 2.1 refers to the Settlement Strategy. It is noted that the nearest small village is Kilshanny which is c.1.5km away from the subject site which is located in the rural area outside of a recognised settlement. Section 2.4.3 refers to Settlement Hierarchy and Strategy. (Map B refers). This notes that the areas outside those identified as urban generated pressure are structurally weak or areas with a strong agricultural economic base. The site is within the agricultural area.

- 7.1.2. Objective CDP3.12 refers to New Single Houses in the Countryside outside the 'Areas of Special Control' i.e: Outside of the Areas under Strong Urban Pressure; Outside of Heritage Landscapes; Not accessed from a Scenic Route. As shown on Map C the site is outside of the Heritage Landscapes area, it is not on a designated scenic route and is not within a rural area under strong urban pressure. Therefore, local needs policy would not apply as per CDP3.11 which relates to New Single Houses in the Countryside within the 'Areas of Special Control. Also, the proposed access to the site is not on a national or regional route and the site is not located in proximity to a Natura 2000 site.' Therefore, Objective CDP3.12 would apply and includes in principle i.e: *To permit an application for a single house by persons who seek a dwelling as their principal private residence and will, therefore, contribute to the social and economic well being of the area.*
- 7.1.3. However, it is noted that the Council have refused permission for the proposed dwelling on the grounds that the applicants own and reside in a dwelling house in immediate proximity to the site, which is their principal residence and consider that the proposed development would materially contravene Objective CDP3.12 and the provisions of the Sustainable Rural Housing Guidelines 2005. It is noted that Section 3.2.3 of the latter refers to *Rural Generated Housing*. This includes people who are an intrinsic part of the rural community. *Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first home near their family place of residence.*
- 7.1.4. Therefore, while the applicant is a farmer who resides with his family and works on the landholding this is clearly not a first home. However, regard is had to the documentation submitted regarding the applicant's need for the proposed development, the substandard nature of the existing house and relative to the issue of a replacement house and possible tourist facilities in this assessment below. Also regard is had to the Council's second reason for refusal relative to siting on this elevated site, design and layout and impact on the visual amenities of the area.

7.2. **Regard to the Background issues**

- 7.2.1. The existing house appears as a bungalow in relatively good condition externally with a mansard roof and roof lights on first floor level and is currently habitable. The

floor plans submitted show that there is bedroom accommodation on ground and first floor level. Unsolicited F.I submitted on behalf of the applicants provides that by way of background information they have carried out significant research into renovating the existing dwelling adjacent to the subject site. They provide that this house was originally a stone cottage which has been extended on several occasions over the past 30 years. The applicant's family operated farmhouse bed & breakfast accommodation over this period and the accommodation was then a registered Guest House with Bord Fáilte. It is noted that the existing house appears as a 1970's style bungalow and there is a surfaced carparking area in front of the house that adjoins the subject site. The house is no longer in use for guest accommodation and is now the principal residence for the farmer and his family.

- 7.2.2. The information submitted provides that following surveying of the existing house including detailed design proposals and tendering by a number of local contractors, it is not considered viable to renovate and they provide details of this. They provide that it is more cost effective to build from new to or above the current standards. They note that the applicants did consider making an application to demolish the existing house in its entirety and to build a new house on the site but that this would be disruptive relative to farming operations and the family including children would have to be relocated for the duration of the works.

7.3. Regard to issues of Replacement House and Rural Enterprise

- 7.3.1. The First Party grounds of appeal notes that the PA accepts that Objective CDP3.14 for a replacement house is acceptable. This includes the following: *a) To permit the proposed demolition of a habitable but substandard dwelling and its replacement with a new single dwelling, subject to normal site suitability considerations.* However as noted by the PA this application is not for a replacement house, in that it is not proposed to demolish the existing house. The First Party consider that this does not include a prerequisite to demolish the existing house and note that it has often been the case that a substandard house is replaced on the landholding without demolition and on a different footprint and that there is nothing in the CDP to preclude this. They provide that the new house will become their principal residence.
- 7.3.2. However, having regard to these Objectives it is not considered that this proposal can be considered in the context of a replacement house, rather as a new house on

a separate greenfield site. It is also noted that the existing house has not been included within the red line site boundaries. While the applicant's concerns in this regard are noted, it is considered that the option of a replacement house on the footprint of and in lieu of the existing house would be preferable to the current proposal, where the site is to be taken from the large field area on a greenfield site.

- 7.3.3. The subject site was chosen on the basis that they consider that it will have minimal impact on the surrounding locality and most of the required services are already available on site. They also note that part of this decision encompassed the possibility subject to a further planning application to develop the existing house as a supporting farm enterprise to the farm. They provide that this maybe individual apartments for short term letting or traditional farmhouse accommodation. Also, that this would require significant resources and investment and may need to be developed in stages according to any permission granted. They have regard to Objectives relative to rural enterprise and agri-tourism in the CCDP 2017-2023 in this respect. These including Objectives CPD6.19, CPD6,20 and CPD6.26 have been noted in the Policy Section above. It is noted that while rural enterprise is supported, it is considered that the type of apartment accommodation referred to would be more appropriate in an urban settlement. However, it is not considered appropriate to discuss the merits of this relevant to the current proposal as the existing house is not included in the red line boundary and any such considerations would need to be the subject of another separate application. The current proposal does not encompass these issues.

7.4. Siting, Design and Layout

- 7.4.1. The Site Layout Plan submitted shows that the proposed two storey house is to be constructed in close proximity to and to the south east of the existing house. The First Party provide that while alternative sites were considered on the landholding, they consider this the most suitable site. They note that the proposed siting has been selected against the backdrop of the existing built environment on site, and they consider it is less exposed than other sites. They also consider the proximate siting to the existing house and facilities will minimise impact on existing infrastructure. Contiguous Views of the proposed front elevation relative to the existing house have been provided.

- 7.4.2. The proposed 4 bed house is to be 280sq.m and is to include a lower profile side conservatory with en-suite above. It is provided that a story and a half type of dwelling was chosen as a best solution to afford the space requirements of the family while at the same time minimising the visual footprint in the landscape. They consider that this type is also cost effective to build and heat and designed to benefit as much as possible from solar gain. Also, that the applicants are open to the finishes being conditioned and they provide details of these, including that they have selected to use some local Limestone to blend in the dwelling into the landscape. As shown on the original drawings submitted, it would be c.9m to ridge height which would be more comparable to the height for a two storey dwelling and the FFL is given as 44m, with the FRL as 53.05m.
- 7.4.3. In response to the Council's concerns regarding the proposed height and design and layout, the F.I submitted provides that the revised proposal is to reduce the overall height by 0.5m to a ridge height of the 52.55m which is 1.76m below the ridge of the existing house and 4m below the ridge of the highest adjacent shed. Contiguous elevations have been submitted showing the context of the proposed dwelling relative to the existing house. It is noted that the revised proposal will generate the required soil for the landscaping screening proposal for the small element that will be visible from a narrow window on some sections to the SSE of the site. Also, it is to attempt to keep to a minimum any cutting of the existing hill. While the proposed revisions relate to a reduction in height they are considered to be relatively minor. The First Party now provides that the proposed garage will be omitted.
- 7.4.4. Regard is had to Section 17.4.5. of the CCDP 2017-2023 which refers to the *Clare Rural House Design Guide*. This includes: The Government Policy on Architecture notes: *Contemporary architecture and design also have an important role to play in the design of rural buildings that make the best use of their location while still blending into and enhancing the natural landscape*. Appendix A1.3 refers to Rural Residential Development and includes: *These guidelines are not intended to be prescriptive. Given that each rural site is unique, any guidelines need to be applied appropriately. However, the principles are likely to be relevant in most contexts and applicants and agents are encouraged to use it as a reference document*.
- 7.4.5. Having visited the site, it is considered that due to its elevated upland nature the proposed house will be visible in the wider landscape. It will be seen in this context

and as additional to the existing dwelling, rather than as a replacement dwelling on the landholding. Regard is had to the issue of landscaping and screening below.

7.5. Impact on the Character and Amenities of the Area

- 7.5.1. The Clare Rural House Design Guide recognises that both traditional and modern design can develop interesting and attractive buildings that contribute to the landscape and character of an area. This has regard to variation in landscape types and this is an upland site within the North Clare and The Burren merged with Coastal and Moorland Region. This Guide seeks to avoid high, prominent and exposed sites or hillcrests. These locations detract from the visual amenity of the landscape and the skyline and provide that a good location is below the hilltop, no interference with the landscape skyline. It is noted that they also can lead to more extensive cutting and filling into hills which can leave the landscape scarred.
- 7.5.2. As part of the F.I request the applicant was asked to consider alternative less exposed sites. In response they provided that the orientation and location was guided by the existing infrastructure and a desire that subsequent to the construction the new dwelling would not be any more noticeable than the existing structures and screening. They consider that in view of the upland nature of the area other sites would be more exposed, whereas this proposal would be seen in the context of the existing dwelling and farm buildings.
- 7.5.3. They provide that the landscape proposal submitted as part of the F.I is specifically designed with reference to local natural features. A *Comprehensive Landscape Design Plan* by a Landscape Designer has been submitted in response to the Council's F.I request. This notes it is proposed to develop an earthen embankment in the position marked in the landscape design plan. Also, that the exact position of the earthen mound is selected to assimilate the proposed development into the receiving landscape successfully. It is noted that the site is to be taken out of the greater field area and as shown on the plans submitted while on the applicant's landholding, this earthen mound appears to be outside of the red boundaries of the subject site.
- 7.5.4. The First Party provides that the siting/location, design and layout of the proposed dwelling has had regard to and is in compliance with the Clare Rural House Design Guide. Guidelines are given relative to siting, shape and form and to the influence of

traditional vernacular. It includes in the Design Brief relative to scale: *A building size should be relative to its surroundings. Its mass should relate proportionately to the landscape setting and site size.* Also of note relative to form and shape is: *A large house close to an existing small house can be overbearing and result in loss of light and privacy as well as disturbing the typology patterns in the rural landscape.* In this case having regard to the Contiguous Views it is not considered that the design and layout of the existing and proposed houses provide for a cluster form of development or are complementary, rather the distinctive styles do not blend with one another. The Guide also provides: *New houses, especially in the more sensitive areas, should try to emulate the simple traditional forms, while adapting to meet modern needs. In exposed areas with no natural vegetation or topographical features to screen, a single storey building may be the solution.* In this case it is considered that the siting and proportions of the proposed house type on this elevated site will appear more prominent and will constitute a visually obtrusive feature in the landscape.

7.6. Access issues

- 7.6.1. Access is proposed via an existing field gate, from the private roadway to the south of the existing house and associated parking area. This provides access to the farmyard and is shared with the existing house where the applicants now reside and two other houses further to the south east. This is a narrow undulating road, with steep incline up to the existing house and proposed entrance. This adjoins the public road network c. 350m east of the site at Aughyvackeen Bridge (LP1046 local primary road) and proximate to the Deelagh River. Sight lines at the access to the public road are not particularly good, due to poor road alignment, however this is a rural area, not adjacent to the regional or national road network, where in view of the narrow width of the road, speeds would be lower. Other than having to negotiate the steep incline to the entrance to the site particularly in the winter months it is not considered that the proposed access is an issue.

7.7. Regard to Disposal of Effluent

- 7.7.1. As this is an unserviced rural area, it is proposed to provide an onsite treatment system. A Site Characterisation form has been submitted with the application. This notes that the existing septic tanks and packaged system are working well on the

farm. The Aughyvackeen river is 400m to the south forming the farm boundary and is approx. 20m below site level. It is provided that the site appears to have potential and notes the good quality well managed farmland. Also falls beneficial to avail of top horizons. The depth of trial hole is given as 2.1, and there was no evidence of mottling or the water table. Clay Loam subsoil was noted. The T value is given as 46.32. P tests were subsequently carried out which provided a result of 42.22.

- 7.7.2. Regard is had to the Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (p.e.< 10). Table 6.2 of this EPA Code of Practice provides the minimum depth requirements for on-site systems discharging to ground i.e.1.2m and at the base of polishing filter 0.9m.i.e minimum depth of unsaturated subsoil to bedrock and the water table. Table 6.3 provides an interpretation of percolation test results and “in cases where $3 < P < 75$ the site may be suitable for a secondary treatment system and polishing filter at ground surface or overground if the soil is classified as Clay...” The ‘T’ and ‘P’ test values given are within this range.
- 7.7.3. The groundwater protection response is R1. Annex B of the Code of Practice includes Table B2 noting vulnerability and provides that an onsite treatment system is acceptable relative to an R1 response, subject to normal good practice i.e. system selection, construction, operation and maintenance in accordance with this CoP.
- 7.7.4. It is proposed to provide an 8 person Aquamax Package Wastewater Treatment System. Details are provided of this. Having regard to the details submitted it is considered that the site is suitable for the disposal of effluent. However, it must be noted that this will add to the number of treatment systems existing in the area.
- 7.7.5. As provided in the F.I submitted the on-site well is located 10m West of the SW corner of the existing house. It is located beside a cabin which is dedicated to the pumping and treatment of the water. It also provides that this has been the source of potable water to the house and farm for several years. A letter has been submitted from ARQTECH Laboratories which provides some details relative to concerns about the water quality in the area, which would need to be rectified.

7.8. **Appropriate Assessment**

- 7.8.1. The Council have carried out a Screening for AA & Determination Report. The site is c.2.1km from the Inagh River Estuary SAC and c.7km from the Cliffs of Moher SPA .

They conclude that having regard to the nature and scale of the proposed development and the absence of proximity or connectivity to a European site, that no impacts on Natura 2000 sites are envisaged.

- 7.8.2. Having regard to nature and scale of the proposed development and the nature of the receiving environment and the distance to the nearest European site, 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. Having regard to the documentation submitted, to the submissions made including the grounds of appeal, planning policy and guidelines and to the site visit made, I recommend that permission be refused for the reasons and considerations below.

9.0 Reasons and Considerations

1. Having regard to the location of the site in the countryside outside of an area of special control and to the provisions of Objectives CDP3.12 and CDP3.14 of the Clare County Development Plan 2017–2023, it is considered that, based on the documentation on file, the applicants who already reside in an existing house in close proximity have not demonstrated a sustainable need for the provision of this new additional dwelling as their principal private residence, which is not intended as a replacement dwelling in lieu of their existing residence and is in a greenfield location. The proposed development would, therefore, be in conflict with the provisions of this Development Plan and would be contrary to the provisions of Section 3.2.3 relative to rural generated housing, of the Sustainable Rural Housing Guidelines for Planning Authorities issued by the Department of the Environment, Heritage and Local Government in April, 2005. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. Having regard to the location of the subject site on an elevated position to the fore of the existing dwelling, on an un-serviced site and with means of access consisting of an undulating narrow private road, without any public road

frontage, it is considered that the proposed development would represent a haphazard form of development in an unzoned rural agricultural area, which would set an undesirable precedent for this form of development.

Furthermore, it is considered that the proposed development would constitute an overly dominant feature in the landscape and would impact on views and seriously injure the visual amenity of the area, notwithstanding the proposed revisions to the house design, as submitted to the planning authority during the course of the application. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Angela Brereton
Planning Inspector

14th of September 2017