



An
Bord
Pleanála

Inspector's Report ABP-304998-19

Development	To construct a dwelling. NIS included.
Location	Cloonfadda, Killaloe, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	19216
Applicant(s)	Tim and Niamh Lowry
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Tim and Niamh Lowry
Observer(s)	None
Date of Site Inspection	11 th October 2019
Inspector	Irené McCormack

1.0 Site Location and Description

- 1.1. The subject site is a rural field situated on the western shore of the Lower River Shannon in the townland of Cloonfadda, 2.4kms south of Kilalloe, Co. Clare.
- 1.2. The site is 1.0447ha in size and currently in agricultural use. Access is from the main Limerick to Killaloe regional road (R463), which has a speed limit of 60kmph at this location. The carriageway is approx. 6m in width with no footpaths or public lighting.
- 1.3. The area is characterised by agricultural farmland to the east of the regional road and by a significant number of linear one-off rural dwellings to the west with direct access onto the regional road.
- 1.4. The appeal site comprises open agricultural grasslands bounded on all sides by hedgerows interspersed with trees. The site is approximately 154m in depth and 70m in breadth. The site falls gently in a easterly direction toward the river side edge. There is a line of trees which extends from north to south along the eastern site boundary and beyond this another wet grassland field, which acts as a buffer between the site and the River Shannon, however, this line is sparse in nature, allowing for views of the River Shannon.
- 1.5. Recorded Monument CL045-048003 (Standing Stone) is located on the subject site and Recorded Monument CL045-048001 and CL045-048002 both standing stones are located in the adjoining field to the south of the site

2.0 Proposed Development

- 2.1. The proposed development will comprise the following:
 - Construction of dwelling,
 - Construction of a detached domestic garage,
 - Provision of an advanced wastewater treatment system, soil polishing filter,
 - All associated site works.
- 2.2. A Natura Impact Statement (NIS) accompanied the planning application.
- 2.3. Unsolicited further information was submitted by the applicant to Clare County Council on 12th April 2019 relating to an Archaeological Assessment. Additional

unsolicited further information was submitted on 14th June 2019 in relation to compliance with the Strategic Regional Road policy (CDP8.5) and on 27th June 2019 in relation to access arrangements.

3.0 Planning Authority Decision

3.1. Decision

Clare County Council issued notification to refuse planning permission for the following reasons:

1. The proposed development requires direct access off the Strategic Regional ROAD, the R463 Limerick-Killaloe-Tuamgraney road, where it is the objective of the Planning Authority as set out under DDP 8.5 of the Clare County Development Plan 2017-2023, as varied, that development requiring direct access onto this road will be restricted to established landowners and their sons and daughters wishing to building a dwelling for their own occupation on family lands, where it is clearly demonstrated that there is no reasonable alternative site with access off a minor road available may be considered.

The applicants are not established landowners whereby in this instance and do not met the criteria as set out in CDP8.5 of the Development Plan. Accordingly, to grant the proposed development would materially contravene Objective CDP 8.5 of the County Development Plan in relation to development of Strategic Regional Roads and would endanger public safety by reason of a traffic hazard and would thus be contrary to the proper planning and sustainable development of the area.

2. Taken together with existing development and multiplicity of entrances along this stretch of Regional Road, the Planning Authority considers that the proposed development would endanger public safety by reason of a traffic hazard having regard to the extra traffic generated by this development where adequate sightlines have not been identified and having regard to the proximity of the proposed access to an existing access point. The proposed development would be contrary to the proper planning and sustainable development of the area.

3. The Planning Authority considers that having regard to the information submitted that the implications of the project including the proposed design and location of the effluent treatment system and percolation area on the Conservation Objectives of the surrounding European site(s), in particular the Lower River Shannon SAC (Site Code 002165), are not fully known. As such it cannot be concluded that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on the qualifying interests of any European Site(s). The proposed development therefore if permitted would materially contravene Objective CDP 14.2 of the Development Plan which seeks to afford the highest protection to all European sites.
4. The subject site is located in an area designated in the Clare County Development Plan 2017-2023 , as varied, as being a 'Heritage Landscape' and also adjacent to a 'Scenic Views', where policies CDP 13.5 and CDP 13.7 respectively apply, which seek to protect sensitive areas from inappropriate development and to minimise views of scenic features from the public road. It is considered that the proposed development, by reason of its scale and siting, together with its proximity to Lough Derg, would detract from the scenic amenities of the area and would interfere with views from the scenic Route and Lough Derg. The proposal would therefore seriously injure the visual amenities of the area and would, therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

- The Area Planners report (28th June 2019) noted that the site is located in an area of "Special Planning Control" where the policy permits an application for a single house by persons who seek a dwelling as their principle private residence subject to criteria. It is noted that the applicant complies with housing needs policy CDP3.11. Notwithstanding, compliance with housing need policy CDP 3.11, it is noted that the applicants are buying the site and are not established rural landowners or sons and daughters of rural

landowners and therefore do not comply with CDP 8.5 - Development of Strategic Regional Roads. The site is not located within a settlement boundary on zoned lands, or within a residential cluster. It is set out that the site is located on a heavily trafficked regional road within a 60kmph, however traffic speed is generally higher. The unsolicited further information submitted by the applicant is noted and the assessment states that the planning authority do not concur that the site represents a “residential cluster”.

- In relation to the disposal of effluent concern is expressed regarding the recorded level of the water table.
- No objection is raised to the principle of the design.
- In line with the source-path-receptor principle and the proximity to the SAC(Lower River Shannon) and the direct hydrological link between the site and the SAC , it was concluded that the proposed development, individually or in combination with other plans or projects, has the potential to have a significant effect on the qualifying interests of any European Site(s). It is noted that the site is located outside of flood zone A and B.
- No archaeological issues were raised as the report submitted by way of unsolicited further information found no visible traces of any of the three identified Monuments.
- The planner’s report recommend refusal for three reasons namely; contrary to CDP 8.5 Strategic Regional Road, Traffic Hazard and contrary to CDP 14.2 European Sites/AA. An additional reason referring to the impact of the development on visual amenities within a designed ‘Heritage Landscape’ was added by the A/Senior Executive Planner.

3.2.2. Other Technical Reports

Environmental Assessment Officer - In her report dated 28th June 2019 the Environmental Assessment Officer sets out that there is a direct hydrogeological link between the proposed development and associated infrastructure (including WWTS) through the presence of a small drain which discharges to the River Shannon. The Lower River Shannon is identified and designated for a number of water dependent habitats and species. Concerns is expressed regarding the pressure and threats to

the qualifying habitats for which the lower River Shannon is designated including surface water pollution and the design of the treatment system based on percolation tests results undertaken in August of 2018 when the water table was perhaps at its lowest. It is set out that there is a significant risk in terms of the design of the WWTS taking into consideration the height of the water table in peak winter season given the WWTS will be sited approx. 12m from the SAC boundary.

It was concluded that the proposed development, individually or in combination with other plans or projects, will not have a significant effect on the qualifying interests of any European Site(s). The potential for significant effects to European Site(s) cannot be ruled out.

Department of Physical Development (Environment) - In their report dated 28th June 2019 the Environmental Section request the redesign of the polishing filter so as to make allowance for the winter water table much near the surface that the recorded 1500mm.

Architectural Conservation Officer/Archaeologist – In his report dated 16th May 2019 the Architectural Conservation Officer/Archaeologist concurs with the recommendation of the Dept. of Culture, Heritage and Gaeltacht and recommends Archaeological Impact Assessment, including licenced trail trenching be carried out in the site.

Roads Department - In their report dated 7th May 2019 the Roads Department notes that this is a busy and dangerous straight section of road and notes the vehicles observed were travelling at high speed albeit within the 60kmph. Additional information recommended demonstrating 90m sightlines, impact of adjoining sightlines, hedgerow removal and surface water details.

3.3. Prescribed Bodies

Department of Culture, Heritage and the Gaeltacht - In their report dated 29th April 2019 the Department notes the Recorded Monument on site and recommends the applicant engage an archaeologist to carry out an archaeological assessment before a planning decision is taken. The report notes the proximity to the Lower River Shannon SAC (002165) and the conservation objectives for the site, in addition to the proximity to the Lough Derg Special Protection Area (Site Code 004058). The

likely effects of all parts of the proposed development, at site preparation, construction and operation stages, and including any associated and ancillary development and works, and any mitigation measures required, shall be taken into account, during the screening for appropriate assessment, and the appropriate assessment.

Irish Water – (report dated 1st February 2019) - No objection

3.4. **Third Party Observations**

None

4.0 **Planning History**

Site

None

Surrounding

ABP PL03.222377 / CCC 06/2245 – Permission granted in 2007 to construct a replacement house, improvements to existing site entrance and associated site works at Cloonfadda, Killaloe, Co. Clare.

5.0 **Policy Context**

5.1. **Development Plan**

5.1.1. Clare County Development Plan 2017-2023

5.1.2. The subject site is located within an area designated as ‘New single houses in the countryside within the ‘Areas of Special Control’.

Housing

Policy Objective CDP3.8: 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.

Section 3.2.5 refers to Single Housing in the Countryside.

Policy Objective CDP3.11: New Single Houses in the Countryside within the ‘Areas of Special Control’

It is an objective of the Development Plan:

A) in the parts of the countryside within the 'Areas of Special Control' i.e.:

- Areas under Strong Urban Pressure (See chapter 17);
- Heritage Landscapes (See Chapter 13);
- Sites accessed from Scenic Routes (See Chapter 13 and Appendix 5).

To permit a new single house for the permanent occupation of an applicant who falls within one of the Categories A or B or C meets the necessary criteria.

Category A refers to Local Rural Person

Category B refers to Persons Working Full Time or Part-time in Rural Areas

Category C refers to Exceptional Health and/or Family Circumstances

B) To ensure compliance with all relevant legislation as outlined in Objective CDP2.1 and have regard to the County Clare House Design Guide, in particular with respect to siting and boundary treatment.

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 compliance with objectives CDP8.4 and 8.5 as set out in Chapter 8.

5.1.3. Section A1.3 Residential Development standards

- A1.3.1 Rural Residential Development refers to Siting and Design, Road Frontage, Plot Size and Waste Water Treatment Systems.

5.1.4. Landscape

The landscape is defined in the Development Plan as 'Heritage *Landscape*'.

Objective CDP13.5: Settled Landscapes states:

It is an objective of the Development Plan to require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal – from site selection through to details of siting and design. All other relevant provisions of the Development Plan must be complied with.

All proposed developments in these areas will be required to demonstrate:

- That sites have been selected to avoid visual prominent locations;

- That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;
- That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development

5.1.5. CDP13.7 Scenic Views

It is an objective of Clare County Council:

- a) To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;
- b) To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;
- c) To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

5.1.6. Roads and Sightlines

CDP8.5 Development of Strategic Regional Roads

It is an objective of Clare County Council:

- a) To upgrade and improve, where necessary, the Regional Roads in the County as outlined in Table 8.1 and Table 8.2. The Council will have regard to national and regional transport plans and the Council's programme of works. The undertaking of any works will be subject to the availability of finance and resources;
- b) To preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure. Development requiring direct access onto the Strategic Regional roads identified in Table 8.1 will be restricted to the following criteria:
 - Developments of strategic importance which by their nature are most appropriately located in a rural area;
 - Established rural landowners* and their sons and daughters wishing to build a dwelling for their own occupation on family land. It must be clearly demonstrated that there is no reasonable alternative site with access off a

minor road available, and that the development complies with the objectives as set out in Chapter 3 Urban and Rural Settlement Strategy;

- Developments located within the settlement boundaries, residential clusters and where the 50km/h speed limit applies

5.1.7. Section A1.9.2 refers to Sight Distance Requirements.

Water

Section 8.4 refers to Water and Wastewater Services

Objective CDP8.27 - Waste Water Treatment and Disposal Associated with Development in Un-Serviced Areas. Effluent Treatment Plants to comply with the EPA guidelines

Archaeology

CDP 15.8 refers to Site, Features and Objects of Archaeological Interest

European Sites

CDP 14.2 refers to European Sites

It is an objective of the Development Plan:

- To afford the highest level of protection to all designated European sites in accordance with the relevant Directives and legislation on such matters;
- To require all planning applications for development that may have (or cannot rule out) likely significant effects on European sites in view of the site's Conservation Objectives, either in isolation or in combination with other plans or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats Directive and the Planning and Development Act, 2000 (as amended);
- To recognise and afford appropriate protection to any new or modified SPAs or SACs that are identified during the lifetime of this Plan, having regard to the fact that proposals for development outside of a European site may also have an indirect effect

5.1.8. **National Policy and Guidelines**

- National Planning Framework (2018)

5.2. Natural Heritage Designations

5.2.1. The western site boundary is bounded by the Lower River Shannon SAC (Site Code 002165). Lough Derg SPA (Site Code 004058) is located 3.3km north of the site.

5.3. EIA Screening

5.3.1. Having regard to the nature and scale of the proposed development there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

- It is set out that the development does not require direct access onto a Strategic Regional Road but proposes an entrance onto an already established roadway, serving the adjoining haulage company and the proposal for one house will not give rise to significant traffic.
- The entrance has been purposely sited to overcome policy CDP8.5. It is noted that the site is located within the 60kmph. In accordance with Section 1.6 of the Spatial Planning and National Road Guidelines for Planning Authorities 2012 which suggests that a more flexible approach could/should be adopted to those locations within the 50-60kmph limit.
- Permission was refused on the basis of the original site entrance submitted to the planning authority and not the revised unsolicited further information on 27th June 2019. A further revised site entrance drawing is submitted to the Board for consideration, with an entrance arrangement proposed further down the lane to the east and away from the junction with the regional road (R463). It is set out that 90m sightlines in both directions can be achieved with the removal of the existing hedgerow to the south.
- It is set out that there is in fact no drain along the south eastern boundary but that this is the line of the old road which used to connect the laneway on the northern site boundary and provide access to Cloonfadda House and

therefore does not represent a hydrological connection to the River Shannon SAC. It is set out that there is a drain running along the southern site boundary well removed from the treatment system and polishing filter area.

- It is set out that all works proposed comply with the EPA Code of Practice and Waste Water Treatment Manual for Single Houses. It is noted that there is no minimum separation distances from Natura 2000 sites detailed in any Code of Practice or guidance document.
- The design of the polishing filter has been revised to address any concerns arising from a higher water table level on site and revised drawings submitted to the Board for consideration. It is set out that the site is not located in a flood zone and has never flooded. The design, location and best practice measures ensure that all the potential for adverse effect on the SAC are robustly blocked such that no adverse effects on the integrity of the SAC can occur.
- The submission was accompanied by a letter from MKO (Ecologists) setting out that the NIS submitted and additional information submitted to the Board is valid and correct and “it can be concluded, on the basis of objective scientific information, that the proposed project, individually or in combination with other plans or projects, will not adversely affect the integrity of any European Site”.
- It is the position of the applicant that the development has been carefully sited and designed to address the sensitive location of the site within a Heritage Landscape and off a scenic route and reflects a contemporary take on traditional vernacular structures. It is proposed to retain all existing trees and hedgerows, thereby further screening the development from both the road and the river. Accordingly, the development will not detract from the scenic amenities and will not interfere with views from the scenic route or from the river.
- It is set out that the development is necessary to provide accommodation for a local person, intrinsically connected to the townland of Cloonfada. The applicant has a housing need and complies with the settlement policy as set out in the Clare County Development Plan 2017-2023.

- It is submitted to the Board that the challenges to the site have been overcome.

6.2. Planning Authority Response

None

7.0 Assessment

7.1.1. In their appeal submission the appellants have presented a revised site layout drawing to the Board for consideration with an entrance arrangement proposed further down the existing lane to the east and away from the junction with the regional road (R463). The design of the polishing filter has also been revised to address any concerns arising from a higher winter water table level on site and submitted to the Board for consideration.

7.1.2. I consider the substantive issues arising from the grounds of appeal and in the assessment of the application and appeal, relate to the following:

- Rural Housing Policy
- Design and Layout - Impact on Heritage Landscape and Scenic Views
- Sightlines and Road Network
- Water Services
- Other Matters - Archaeology
- Appropriate Assessment

7.2. Rural Housing Policy

7.2.1. The site is located in a rural area which has been identified as 'New single houses in the countryside inside the 'Areas of Special Control' in the Clare County Development Plan 2017-2023 and within an area identified as being a rural area under strong urban pressure. Objective CPD 3.11 of the Development Plan sets out that it is an objective of the Council to facilitate the development of individual houses in the open countryside in 'New single houses in the countryside inside the 'Areas of Special Control' Areas' subject to an application for a single house by persons who require a new single house for the permanent occupation of an applicant who falls

within one of the Categories A or B or C and meets the necessary criteria. Category A refers to Local Rural Persons, Category B refers to Persons Working Full Time or Part-time in Rural Areas, Category C refers to Exceptional Health and/or Family Circumstances. The proposal is for a rural dwelling, where the applicants are purchasing the site from an independent third party.

- 7.2.2. Section 3.2.5 *Single House in the Countryside* of the Development Plan, which sets out that in rural areas under strong urban pressure, the key objectives of the Council are to facilitate the genuine housing requirements of the local rural community (rural generated housing), subject to satisfactory site suitability and technical considerations and to direct urban-generated development to areas zoned for new housing development in the adjoining urban centres, towns and to seek to enhance these settlements.
- 7.2.3. It is clear that the applicant, Tim Lowry grew up in the area and was a pupil at the local national school. It is also noted that the applicants are currently renting in the Killaloe area.
- 7.2.4. National Policy Objective 19 of the National Planning Framework (NPF) issued by the Department of Housing, Planning and Local Government in February 2018 which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area. With regard to an economic requirement to live in the area, it is noted that the documentation on file indicates that Tim Lowry works from home 50/60% of the time and in the Netherlands the remainder of the time. It is also noted that Niamh Lowry commutes to Limerick City for work. With regard to a social need to live in the area, it is noted that the Tim Lowry is local to the area and his family home is stated to be c. 300m from the proposed site. However, having regard to the viability of existing rural villages and settlements and the efficient provision of public services and infrastructure, it is considered that the applicants have not demonstrated a sufficient reason to live in a rural area and in accordance with Section 3.2.5 Rural Area Under Strong Urban of the Development Plan which sets out that urban generated housing should be directed into the adjoining urban centre, towns and villages.

7.2.5. Having regard to the proposal for a one-off rural dwelling, located in a designated Heritage Landscape, adjacent to the Lower River Shannon SAC, National Policy Objective 19 of the NPF and in the absence of an identified economic or social need to live in the area, it is considered that the proposed development would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would negatively impact on the viability of smaller towns and rural settlements. It is recommended that permission should be refused on this basis

7.3. Design and Layout - Impact on Heritage Landscape and Scenic Views

7.3.1. The proposed dwelling reflects a contemporary design approach with a single pitched roof element linked to a taller mono-pitch two-storey element. The layout including detached garage reflects a cluster type development enclosed in a traditional courtyard form. The maximum ridge height is 6.9m. It is proposed to construct the dwelling in the south-eastern corner of the site approx. 60m from the River Shannon. The topography of the area requires that there will have to be some degree of cut & fill, to facilitate the construction of the house. I would see no objection to the design of the house, *per se*.

7.3.2. The site is located within a landscape designated as being a 'Heritage Landscape' and along a designated 'Scenic Views', where policies CDP 13.5 and CDP 13.7 respectively apply, which seek to protect sensitive areas from inappropriate development. It was the planning authority's contention that the proposed development, by reason of its scale and sitting, together with its proximity to the River Shannon, would detract from the scenic amenities of the area and would interfere with views from the scenic Route and the River.

7.3.3. The grounds of appeal argue that the proposed dwelling has been carefully sited and designed to address the sensitive location of the site within a *Heritage Landscape* and off a *Scenic Route* and reflects a contemporary take on traditional vernacular structures. It is argued that the proposal includes the retention all existing trees and hedgerows, thereby further screening the development from both the road and the river.

- 7.3.4. Policy 13.5 *Heritage Landscape* requires that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. Map 13A identifies that the site is located on a designated scenic route. Policy 13.7 Scenic Views states- “It is the policy of the Council to protect sensitive areas from inappropriate development... and to ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact”. The development plan notes that these areas have limited capacity to accommodate additional houses. The proposed house would be located between the R463 and the lake and so, would impact on the Listed View. The Shannon is an important waterway for tourism and amenity purposes. Whilst there is a belt of mature deciduous trees which would screen the house from view from the River – this would only be the case when there were leaves on the trees. No winter photographic analysis has been undertaken to assess the visual impact when there are no leaves on trees. Furthermore, the scale and various built forms of the development at 463sqm and ridge height at 6.9m will be visible from the R463 and detract from the wider views of the River from the R463.
- 7.3.5. I note the contemporary character of the dwelling, and whilst I consider the principle of a contemporary design approach acceptable, the proposed dwelling by reason of scale and bulk will be visible from the surrounding area and impact negatively on the high amenity value of the scenic route including the shoreline and the protection of this valuable resource should be retained.

7.4. **Sightlines and Road Network**

- 7.4.1. The first reason for refusal quoted by Clare County Council related to access from a Strategic Road – the R463 Regional Road. In their appeal submission the applicants set out that the development does not require direct access onto a Strategic Regional Road but proposes an entrance onto an already established roadway, serving the adjoining haulage company and the proposal for one house will not give rise to significant traffic.
- 7.4.2. The applicants argue that the entrance has been purposely sited to overcome policy CDP8.5. It is noted that the site is located within the 60kmph. In accordance with Section 1.6 of the Spatial Planning and National Road Guidelines for Planning

Authorities 2012 which suggests that a more flexible approach could be adopted to those locations within the 50-60kmph limit.

- 7.4.3. In their revised submission to the Board with an entrance arrangement proposed further down the lane to the east and away from the junction with the regional road (R463), It is set out that 90m sightlines in both direction can be achieved with the removal of the existing hedgerow to the south.
- 7.4.4. Policy CDP8.5 Development of Strategic Regional Roads of the Development Plan states that it is an objective of Clare County Council to preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure. In relation to the policy objectives, the additional turning movements generated by the development will reduce the carrying capacity of the road. Furthermore, the applicants are purchasing the site. The proposed development does not comprise 'exceptional circumstances'. It is stated that proposals for new rural houses to access onto a Strategic Regional Road will only be permitted where compliance is demonstrated with Policy CDP 8.5: Development on Strategic Regional Roads. Policy CDP 8.5 provides for access to housing, where the applicant is an established rural landowners* or their sons and daughters wishing to build a dwelling for their own occupation on family land and developments located within the settlement boundaries, residential clusters and where the 50km/h speed limit applies. Notwithstanding, the location of the new vehicle entrance serving the house off the lane, this lane accesses directly onto the regional road. The development will undoubtedly generate additional traffic turning movements on the Strategic Regional road.
- 7.4.5. As part of the revised submission to the Board, it is set out that 90m sightlines in both direction can be achieved with the reduction of the existing hedgerow to the south to 800mm. With regards the removal of the hedgerow, I consider this will further expose the site and the proposed dwelling, and in the context of the Heritage Landscape designation and Scenic Views, the removal of hedgerow is not justified and contrary to policy objectives to assimilate new dwellings into the landscape.
- 7.4.6. Having regard to the necessity to take access to the site from the Strategic Road Network of the County, as set out at Policy CDP 8.5 of the Clare County Development Plan 2017-2023, which seeks to limit development to housing which is

essential; it is considered that, the proposed development would reduce the carrying capacity of the R463 Regional Road and the additional traffic movements generated would endanger public safety by reason of a traffic hazard.

7.5. **Water Services**

- 7.5.1. It is proposed to install a packaged **wastewater treatment** system and polishing filter with discharge to ground water. The treatment system is located approx. 7m north of the house with a percolation area located approx. 10m north of the house. Table 6.1 of the 'EPA Code of Practice for Waste Water Treatment and Disposal Systems Serving Single Houses' sets out minimum separation distances. The proposed system reaches recommended separation distances from the new house.
- 7.5.2. The site is located in an area identified with a "moderate" vulnerability classification in the GSI Groundwater maps and is located within area defined "Poor" Aquifer category, representing a GWP response of R1 under the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) (Annex B2).
- 7.5.3. The trial hole assessment submitted by the applicant encountered no bedrock/ water table at a depth of 2.1m. No trial holes were available for inspection, although the site was wet under foot from the front of the site to the rear. With rushes evident on site. The submitted site characterisation records a T-test value of 31.67 min/25mm and P-test value of 2.69 min/25mm, which is within the acceptable range for a septic tank (Table 6.3) and would indicate good percolation.
- 7.5.4. The Department of Physical Development (Environment) in their report on file request the redesign of the polishing filter so as to make allowance for the winter water table much near the surface that the recorded 1500mm. In order to address this concern, the applicant has submitted to the Board a revised design of the polishing filter. The percolation area has been raised by 900mm thereby ensuring that the bottom of the 1200mm of unsaturated soil is only 85mm into the ground. It is set out that the site is not located in a flood zone and has never flooded.
- 7.5.5. Notwithstanding the above, the applicant has not established the winter water table on site and on-site conditions including rushes and water underfoot would indicate poor drainage on site. There is a significant risk in terms of the disposal of effluent taking into consideration the height of the water table in peak winter season and

given the treatment system will be sited approx. 12m from the SAC boundary. Therefore, I cannot conclude that the proposed development would not give rise to a significant risk of ground water pollution on the site. The development should be refused for this reason.

7.6. Other Matters

7.6.1. In relation to Recorded Monument CL045-048003 (Standing Stone) on the subject site and Recorded Monument CL045-048001 and CL045-048002 (both Standing Stones) in the adjoining field to the south, I note the report on file from the Architectural Conservation Officer/Archaeologist which concurs with the recommendation of the Dept. of Culture, Heritage and Gaeltacht and recommends updated Archaeological Impact Assessment, including licenced trail trenching be carried out in the site before a planning decision is taken. I am satisfied that this mater can be addressed by way of an appropriately worded condition should the Board be minded to grant planning permission.

7.7. Appropriate Assessment

Stage 1 Screening

7.7.1. The proposed development would not be located within an area covered by any European site designations and the works are not relevant to the maintenance of any such sites. The only European site that could potential be affected by the proposed development is the Lower River Shannon SAC, located to the immediate east of the site.

7.7.2. **Conservation Objectives:** to maintain or restore the favourable conservation condition of the Annex 1 habitat(s) and / or the Annex II species for which the SAC has been selected

European Site	Site Code	Relevant QI's and CI's	Distance
Lower River Shannon SAC	002165	Conservation Objectives: To maintain the favourable conservation of the priority habitats listed below. Priority habitats include:	Immediate east of the subject site.

Freshwater Pearl Mussel *Margaritifera margaritifera*

Sea Lamprey *Petromyzon marinus*

Brook Lamprey *Lampetra planeri*

River Lamprey *Lampetra fluviatilis*

Atlantic Salmon *Salmo salar* (only in fresh water)

Sandbanks which are slightly covered by sea water all the time

Estuaries

Mudflats and sandflats not covered by seawater at low tide

*Coastal lagoons

Large shallow inlets and bays

Reefs

Perennial vegetation of stony banks

Vegetated sea cliffs of the Atlantic and Baltic coasts

Salicornia and other annuals colonizing mud and sand

Atlantic salt meadows
(*Glauco-Puccinellietalia maritimae*)

Bottlenose Dolphin *Tursiops truncatus*

Otter *Lutra lutra*

Mediterranean salt meadows (*Juncetalia maritimi*)

Water courses of plain to montane levels with the *Ranunculion fluitantis* and

		<p><i>Callitricho-Batrachion</i></p> <p>vegetation</p> <p><i>Molinia</i> meadows on calcareous, peaty or clayey-silt-laden soils (<i>Molinion caeruleae</i>)</p> <p>*Alluvial forests with <i>Alnus glutinosa</i> and <i>Fraxinus excelsior</i> (<i>Alno-Padion</i>, <i>Alnion incanae</i>, <i>Salicion albae</i>)</p>	
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7.8. Potential indirect effects on the Lower River Shannon SAC relates to sediment laden surface water run-off entering small drain located on the southern end of the southeastern boundary and along the entire southwestern site boundary, and ultimately entering the Lower River Shannon SAC. In the absence of mitigation measures, it is not possible to rule out impacts on water quality which could negatively impact on water sensitive qualifying interests of the SAC.

7.8.1. On the basis of the information on the file, which I consider adequate in order to issue a screening determination, it is not possible to conclude that the proposed development, individually or in combination with other plans or projects would not be likely to have a significant effect on European Site 002165, or any other European site, in view of the site's Conservation Objectives. A Stage 2 Appropriate Assessment is therefore, required.

Appropriate Assessment – Stage 2 NIS

A Natura Impact Statement was submitted to the Planning Authority.

Lower River Shannon SAC

7.8.2. The Lower River Shannon SAC stretches for over 120km through counties Clare, Limerick and Kerry. The site is of great ecological interest as it contains a high number of habitats and species listed on Annexes I and II, including the priority habitats lagoon and alluvial woodland, Bottle-nosed dolphin and lamprey.

7.8.3. As set out in the NIS there is a small drain located at the southern end of the south-eastern boundary and along the entire southwestern boundary and provides a hydrological link to the River Shannon SAC.

7.8.4. Surface water run-off associated with the construction stage and operational phase could potentially enter the drain and ultimately the SAC. Therefore, in the absence of mitigation measures, there is potential for indirect effects on surface water quality during site preparation and earthworks. The NIS noted that the southern and eastern boundaries will be fenced off with silt fencing at the outset of construction with no access outside this fence in order to prevent any runoff from the site and provide a solid barrier between the site and the SAC. Disposal of surface water generated during the operational phase of the proposed development has not been addressed.

7.8.5. Potential Effects

Water Quality

Potential impacts include contaminants entering the waters of the River impacting on the water quality and qualifying interest species arising from surface water run-off, or impacts from foul water effluent storage, collection and disposal. Therefore, in the absence of sufficient details relating to construction management mitigation, effluent disposal (having regard to section 7.5 above) and taking cognisance of the proximity of the site to the River Shannon SAC and the direct hydrological connection between the site and the SAC, I do not have confidence in the documentation submitted with the application and to the Board. Therefore, I am not satisfied that the development would ensure the adequate protection of water quality. In conclusion, and applying the precautionary principle, significant effects on the River Shannon SAC cannot be ruled out.

7.9. AA Conclusion

7.9.1. Therefore, on the basis of the information provided with the application and appeal, the Board cannot be satisfied that the proposed development individually or in combination with other plans or projects, does not have the potential to have a significant effect on the qualifying interests of the River Shannon SAC (002165), or any other European site, in view of the site's Conservation Objectives.

8.0 Recommendation

I recommend that permission be refused for the Reasons and Considerations set out below

9.0 Reasons and Considerations

1. The site of the proposed development is located within an “Area Under Strong Urban Influence” as set out in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April 2005. Furthermore, the subject site is located in an area that is designated under urban influence, where it is national policy, as set out in National Policy Objective 19 of the National Planning Framework, to facilitate the provision of single housing in the countryside, based on the core consideration of demonstrable economic or social need to live in a rural area. Having regard to the documentation submitted with the application and appeal, including the described nature and location of the current employment of the applicants, the Board is not satisfied that the applicants have a demonstrable economic or social need to live in this rural area, nor that the applicants housing need could not be met within an existing, established town or village. It is considered, therefore, that the applicants do not come within the scope of the housing need criteria as set out in the Guidelines and in national policy for a house at this location. The proposed development would be contrary to the Ministerial Guidelines and to the over-arching national policy, notwithstanding to the provisions of the current Clare County Development Plan 2017-2023, and would, therefore, be contrary to the proper planning and sustainable development of the area
2. Having regard to the necessity to access to the site from the Strategic Road Network of the County, as set out at Policy CDP 8.5 of the Clare County Development Plan 2017-2023, which seeks to limit development to housing which is essential and to preserve the carrying capacity of the Strategic Regional Road network, it is considered that the proposed development would reduce the carrying capacity of the R463 Regional Road at a point where sightlines are restricted and the additional traffic movements generated

would endanger public safety by reason of traffic hazard and would be contrary to Policy CDP 5.8 of the Development Plan. The proposed development would therefore, be contrary to the proper planning and sustainable development of the area

3. The site is located within a landscape designated as being a 'Heritage Landscape' and along a designated 'Scenic View'. Policy CDP 13.5 and CDP 13.7 of the Development Plan seek to protect sensitive areas from inappropriate development and ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact. Having regard to the location of the site in proximity to the shoreline, and between a regional road and the River, which comprises a 'Scenic View', it is considered that, the proposed development by reason of scale and bulk will be visible from the surrounding area and impact negatively on the high amenity value of the scenic route including the shoreline, would seriously injure the visual amenities of the area, would interfere with the character of the landscape, would conflict with the policies of the development plan and would, therefore, be contrary to the proper planning and sustainable development of the area.
4. Having regard to the proximity of the site to the River Shannon and in the absence of information regarding the winter water table on site, the Board is not satisfied that the effluent from the proposed development can be satisfactorily treated or disposed of on site, notwithstanding the proposed use of a proprietary wastewater treatment system, nor that the proposed development would not result in an excessive concentration of development served by wastewater treatment systems in an area which is considered to be a highly sensitive water environment. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.
5. Having regard to the location of the site in close proximity to the Lower River Shannon, a designated Special Area of Conservation, which it is an objective of the Development Plan to conserve, the Board is not satisfied on the basis of the information submitted that the proposed development would not have

an adverse impact on the SAC. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area

Irené McCormack
Planning Inspector

4th November 2019