



An
Bord
Pleanála

Inspector's Report

ABP-309174-21

Development

Development of an organic farm enterprise including the regeneration, renovation and extensions to existing farm buildings to convert them to short term tourism accommodation units for visiting guests, erection of animal enclosures and greenhouse.

Location

Carrowntedaun , Lahinch , Co. Clare

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

20386

Applicant(s)

Pat and Liz Rounie

Type of Application

Permission

Planning Authority Decision

Grant with Conditions

Type of Appeal

Third Party

Appellant(s)

Mary and Michael Sexton

Michael O'Connell

Observer(s)

None

Date of Site Inspection

21st of January 2022

Inspector

Adrian Ormsby

Contents

1.0 Site Location and Description	5
2.0 Proposed Development	5
3.0 Planning Authority Decision	6
3.1. Decision	6
4.0 Planning Authority Reports	7
4.1. Planning Reports.....	7
4.2. Other Technical Reports	8
4.3. Prescribed Bodies	9
4.4. Third Party Observations	9
5.0 Planning History.....	10
6.0 Policy Context.....	10
6.1. National and Regional Policy Context	10
6.2. Section 28/Other Guidelines	13
6.3. Clare County Development Plan 2017-2023 (CDP)	13
6.4. Natural Heritage Designations	18
6.5. EIA Screening	18
7.0 The Appeal	19
7.1. Grounds of Appeal	19
7.2. Applicant Response	23
7.3. Planning Authority Response	26
7.4. Observations	28
8.0 Assessment	28
8.1. Introduction	28

8.2.	Principle of the Development	29
8.3.	Residential, Visual and Rural Amenity	31
8.4.	Wastewater Treatment and Disposal	32
8.5.	Surface Water Management	36
8.6.	Traffic Safety	37
8.7.	Farm Animal Welfare	39
8.8.	Appropriate Assessment	40
9.0	Recommendation.....	43
10.0	Reasons and Considerations	43

1.0 Site Location and Description

- 1.1. The appeal site is in the rural area of Carrowntedaun, Lahinch, Co. Clare, c. 3.5 km south west of Lahinch. The site is accessed via a local road off the N67 National Secondary Road that that links Lahinch to Milltown Malbay. The site is c.80m north of the junction of the local road and the N67. The site is c. 375m south of the coastline with the Atlantic Ocean.
- 1.2. The local road is a cul de sac that provides access to a small number of residential properties and some farm holdings. The road is relatively straight from the N67 to the site but is substandard in width with room for only one vehicle to pass at a time.
- 1.3. The stated site area is 0.397 sq.m. It is made up of an existing agricultural farmyard. The site wraps around two semi-detached single storey houses one of which is identified in the application as the Applicants.

2.0 Proposed Development

- 2.1. The development comprise of the following-
 - the development of an organic farm enterprise
 - the redevelopment of existing farm buildings to provide short term guest accommodation units (70.41 sq.m and 24.85 sq.m),
 - provision of a store and workshop
 - animal enclosure area
 - erection of a greenhouse of 16.12 sq.m,
 - a new entrance, access road and car parking
 - wastewater treatment plant and polishing filter
 - Existing buildings on site 223 sq.m
- 2.2. The Planning Authority sought further information (FI) on the 04/08/2020 relating to the following-
 - Entrance and traffic related issues
 - Wastewater treatment and disposal issues, farm effluents and waste issues

- Surface water disposal issues
- The sites location within a 'Heritage Landscape', visual amenity impact from the proposed development, boundary treatment and landscaping proposals.
- Residential amenity impacts on existing properties
- Waste Management
- Signage proposals
- Intended use of proposed store/workshop and if use will be for residents of proposed development.

2.3. Unsolicited Information was also submitted by the Applicants on the 29/07/20 relating to the submission of TII and third parties. This submission is also on the appeal file.

2.4. The Applicants submitted their response to the FI request on the 18/11/2020.

2.5. Further unsolicited Additional Information was received on the 02/12/20 i.e. a site layout plan drawing.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The planning authority decided to grant permission on the 21/12/20, subject to sixteen conditions of a standard nature, including the following-

- C2 sought revised drawings for agreement relating to-
 - Unit 1 shall be single storey, mezzanine not permitted
 - Details of proposed play area
 - Samples of external finishes and ground surface treatments
- C3 Section 47 agreement to be submitted detailing the development shall be held in single ownership and shall not be subdivided. The units shall be for short term letting only for a maximum of 4 weeks and not for single night letting.
- C7 Access to the site and entrance arrangements

- C9 A Construction and Demolition Environmental Management Plan to be submitted
- C10 A Surface Water Management Plan shall be submitted
- C12 Wastewater treatment requirements
- C15 Proposed store shall not be used for human habitation, commercial activity or any other purpose other than incidental to the enjoyment of the proposed units.
- C.16 Development Contribution of €2,852.64

4.0 Planning Authority Reports

4.1. Planning Reports

- Following an initial request for further information the Planner's report dated 21/12/20 noted the following-
 - The relatively low traffic volumes on the road, limited scale of development, it is not considered that the proposal will result in a traffic hazard or be detrimental to road users.
 - The scale of the proposal is such that that maximum achievable sightlines as shown are acceptable in this instance.
 - It is important a balance is struck between developments on narrow country roads and third party concerns of traffic hazards. The road is relatively straight and adequate sightlines have been demonstrated.
 - A Traffic and Transport Assessment is not warranted/required. The local engineer had no objection.
 - Following submission of FI each unit contains two bedrooms giving a max occupancy of 8. The site suitability assessment has been amended and the polishing filter will be 54 sq.m.
 - The polishing filter should be cordoned off to ensure no animal graze over it. Good animal husbandry is managed under legislation other than planning.

- Some surface water management matters have not been submitted and should be conditioned.
- Unit 1 shall be single storey to restrict occupancy and in the interest of visual amenity.
- Boundary treatment and landscaping shall be managed by condition
- The Applicants submitted a sunlight analysis and the existing house is not adversely affected.
- A waste management plan shall be conditioned.
- The proposal was considered to be seen in accordance with Policies CDP9.10 of the Development Plan which seeks to promote the provision of farm tourism enterprises.
- The proposal falls under the umbrella of agri-tourism with associated rural activities. Self-catering accommodation is the considered the primary use
- The report recommended that permission be granted subject to conditions which is consistent with the Notification of Decision to Grant Permission.

4.2. Other Technical Reports

- Roads Design Office
 - 01/07/20- No objections raised
 - 03/12/21- use of a mirror to achieve sightlines of 70m is not a recognised method of calculating sight distances.
 -
- West Clare Municipal District Office- Engineer
 - 14/07/20- No objections
- Environment Section
 - 27/07/20- further information required
 - 25/11/20- no objection subject to conditions

4.3. Prescribed Bodies

- Transport Infrastructure Ireland (TII)
 - 03/07/20 Further information required, insufficient data on the developments impact upon the national road network, a Traffic and Transport Assessment is recommended to be carried out and an assessment of impacts from additional traffic generated at the junction of the local road with the N67.
 - 25/11/20, TII's position remains the same as the 03/07/20.

4.4. Third Party Observations

- 4.4.1. Two third party submission was received on the initial application. These submissions are from the two Appellants. They have been reviewed and generally include matters of the grounds of appeal in section 7.1.
- 4.4.2. The proposed development was readvertised as significant further information with revised notices received on the 26/11/20.
- 4.4.3. Three further third party submission were received. Two of these are from the Appellants. They have been reviewed and generally include matters of the grounds of appeal in section 7.1.
- 4.4.4. Specific and separate issues raised by the third submission i.e. non-appellant can be summarised as follows-
 - There is no issue in principal to the Applicants developing short term tourist accommodation with an organic farm.
 - The submitters own the property attached to the Applicants house.
 - The Applicants have a right of access to their home through the submitters forecourt. This is for private use only. There are concerns regarding use of the existing entry point to make access to the proposed units. The submitter do not want and traffic vehicular or pedestrian through their property in relation to the proposed business and its guests.
 - A map has been submitted.

4.4.5. A representation was received from-

- Councillor Shane Talty on the 19/06/20.

5.0 Planning History

This site

- 19290- Application withdrawn

6.0 Policy Context

6.1. National and Regional Policy Context

6.1.1. The National Planning Framework

- National Policy Objective 14

Protect and promote the sense of place and culture and the quality, character and distinctiveness of the Irish rural landscape that make Ireland's rural areas authentic and attractive as places to live, work and visit. The Action Plan for Rural Development will support this objective up to 2020 thereafter a review of the Action Plan will be undertaken to ensure continued alignment and consistency with the National Policy Objectives of this Framework.

- Section 5.3 Planning for the Future Growth and Development of Rural Areas- Countryside P.74

The Irish countryside is, and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and over-spill development from urban areas and protecting environmental qualities.

- Section 5.4 Planning and Investment to Support Rural Job Creation P.75

Rural areas support a mix of businesses of varying sizes, operating in a wide range of sectors from the traditional, such as agriculture and

tourism, to more modern industries such as financial services and creative industries....

....Ireland's natural resources are some of our greatest assets and through the development of the agriculture, food, forestry, tourism and renewable energy sectors, this will not only sustain rural employment, but also contribute to driving the national economy.

- Agriculture P. 76

The agri-food sector continues to play an integral part in Ireland's economy and is our largest indigenous industry, contributing 173,400 direct jobs and generating 10.4% of merchandise exports in 2016. Agriculture has traditionally been the most important contributor to rural economies and it remains important as a significant source of income and both direct and indirect employment. However, it must adapt to the challenges posed by modernisation, restructuring, market development and the increasing importance of environmental issues.

- Tourism P.77

Tourism and agriculture are inextricably linked in rural areas, given that agriculture, in many places, creates and maintains the landscapes upon which tourism trades. The maintenance of access to our landscapes and the creation of new accesses are dependent on maintaining good links with the agricultural sector.

6.1.2. Regional Spatial and Economic Strategy for the Southern Region-

- Section 3.7- Rural Areas

Rural areas are settlements and surrounding rural areas with a population of less than 1,500. The RSES reflects the position of the NPF, that our countryside "is and will continue to be, a living and lived-in landscape focusing on the requirements of rural economies and rural communities, based on agriculture, forestry, tourism and rural enterprise, while at the same time avoiding ribbon and overspill development from urban areas and protecting environmental qualities."

- Section 4.5 Rural Development- Diversity in the Rural Economy P.110

While our rural economy and society is changing rapidly, in many instances it remains dependent on traditional sectors of agriculture, forestry, fishing, and construction. Employment in the agricultural sector can be low paying necessitating off-farm employment, often in construction. Non-dairy farmers are particularly vulnerable as their income is largely dependent on EU and State transfers. There is also a wide variation in farm income. Rural areas need diversification to retain their population and supplement income. A 'one-size fits all approach' will not suffice. We must take account of diversity and tailor initiatives accordingly.

Our agriculture, forestry, fishing resource base offers many opportunities for diverse enterprise development, renewable energy production as well as tourism, leisure and recreation development. Specific products and services, fishing, mariculture, seafood harvesting, fresh and processed products, including artisanal foods, is established or developing as important enterprise opportunities.

- RPO 49 *Innovation in Rural areas*

It is an objective to support innovation, enterprise start-ups and competitiveness of our rural Region.

- RPO 50 *Diversification*

It is an objective to further develop a diverse base of smart economic specialisms across our rural Region, including innovation and diversification in agriculture (agri-Tech, food and beverage), the marine (ports, fisheries and the wider blue economy potential), forestry, peatlands, renewable energy, tourism (leverage the opportunities from the Wild Atlantic Way, Ireland's Ancient East and Ireland's Hidden Heartlands brands), social enterprise, circular economy, knowledge economy, global business services, fin-tech, specialised engineering, heritage, arts and culture, design and craft industries as dynamic divers for our rural economy.

6.2. Section 28/Other Guidelines

- EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2009) and the Code of Practice - Design Capacity Requirements August (2013). The CoP provides guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.
- EPA Wastewater Treatment Manuals – Treatment Systems for Small Communities, Business, Leisure Centres and Hotels (1999)
- Transport Infrastructure Ireland’s ‘Traffic and Transport Assessment Guidelines May 2014’-
 - Section 1.3- Traffic and Transport Assessment
 - Section 2.1 and 2.2 Thresholds and Sub-threshold

6.3. Clare County Development Plan 2017-2023 (CDP)

The subject site is located outside of identified settlement boundaries and zoned lands in the Development Plan. The site is located within a designated ‘Heritage Landscape’ as per Map 13A- Landscape Designations of the CDP. The site is located c. 80m north of a designated ‘Scenic Route’.

The following objectives are considered relevant-

- CDP2.1 Development Plan Objective: Appropriate Assessment, Strategic Environmental Assessment and Strategic Flood Risk Assessment
- CDP3.15 Development Plan Objective: Refurbishment of a Derelict Dwelling/Structure in the Countryside. It is an objective of the Development Plan:
 - *To permit applications for the refurbishment of derelict dwellings/structures in the countryside subject to the following criteria....*
- CDP3.16 Development Plan Objective: New Single Holiday Homes in the Countryside. It is an objective of Clare County Council:

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.

- CDP6.20 Development Plan Objective: Rural Enterprises

It is an objective of the Development Plan: To support rural enterprise and the rural economy by:

- a.*
- 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;*
- c. Encouraging new commercial uses for vacant or derelict buildings, including historic buildings and buildings in rural areas subject to compliance with appropriate planning, wildlife legislation and services requirements.*

- CDP9.4 Development Plan Objective: Tourism Developments and Tourist Facilities

It is an objective of the Development Plan:

- a.*
- b. To permit tourism-related developments outside of settlements where there is a clear need for the specific location and the benefits to the local community are balanced with the potential environmental impact of the development. The requirements of Objective CDP2.1 will have to be considered in such cases;*
- c. Development proposals must be in compliance with Objective CDP2.1. The proposal should clearly identify the spatial extent of any tourism activities and should address the implications of increased recreational disturbance (both in isolation and in combination with other tourism*

activities) on any European sites as a result of increased tourism and recreation in the area/County, taking into account any current pressures on these sites.

- Section 9.3.4 'Visitor Accommodation-

Tourism can generate great benefits to the local economy and it is therefore considered appropriate to maintain, improve and increase the provision of good quality accommodation for visitors and encourage longer term stays in the County. It is important that a wide range of accommodation options are available to ensure that County Clare is an attractive and convenient tourism location for a wide range of tourists. Objective CDP9.5 below addresses all forms of holiday accommodation with the exception of Holiday Homes, which are addressed in Chapter 4 Housing.

While it is an objective for new tourist accommodation to locate in towns and villages in close proximity to services and amenities, it is recognised that some forms of tourism developments, due to their scale or nature, may require a location outside of settlement boundaries. Such developments include international-scale, integrated tourism developments e.g. golf courses. Such developments, and their requirement to locate outside of an established settlement, will be assessed on a case-by-case basis having regard to their nature, scale, site suitability and normal planning considerations.

- CDP9.5 Development Plan Objective: Tourist Accommodation

It is an objective of the Development Plan:

- a. To promote, encourage and facilitate the provision of new visitor accommodation and the expansion/upgrade of existing hotels, guesthouses, B&Bs and other tourist accommodation at appropriate locations throughout the County;*
- b. To support the redevelopment of brownfield sites, both in settlements and in rural areas, for the provision of tourist accommodation;*

- c. *To support the development of new camping and glamping facilities and facilities for campervans/motor homes/touring caravans both within settlements and in rural locations across the County;*
- d. *To ensure all proposals are in compliance with the requirements of Objective CDP2.1*
- CDP9.10 Development Plan Objective: Rural Tourism and Forestry Tourism

It is an objective of Clare County Council:

- a. *To promote and facilitate the development of rural tourism such as open farms, on-farm craft centres and visitor centres where the development will not have a negative impact on the character, scenic value or rural amenity of the surrounding area, subject to normal planning and environmental criteria;*
- b. *To promote the provision of on-farm tourism enterprises such as the renovation of buildings for tourism purposes, angling, pony-trekking etc, subject to compliance with normal planning and environmental criteria;*
- c.

- Section 10.3.3 Farm-based Rural Enterprise

Many farmers and landowners, through innovation and the utilisation of local/natural resources, now subsidise their farming by diversifying into new enterprises. The rural economy has the potential to offer many viable and sustainable employment opportunities and the Council will encourage and facilitate the development of small-scale rural enterprises where possible.

- CDP10.2 Development Plan Objective: Rural Enterprise

It is an objective of the Development Plan:

- a. *To encourage and support the development of new rural and farm-related enterprises, existing initiatives, innovative indigenous enterprise (both high-tech and traditional) and on and off farm*

employment activities as a means of promoting rural diversity and strengthening the local economic base;

b.

- CDP13.5 Development Plan Objective: Heritage Landscapes

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 visually 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.*

- CDP13.7 Development Plan Objective: Scenic Routes

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.*

6.4. Natural Heritage Designations

The site is located-

- c. 3.5km south of the Inagh River Estuary SAC (000036)
- c. 7.5km south east of the Cliffs of Moher SPA (004005)
- c. 7.5km north east of the Carrowmore Point to Spanish Point and Islands SAC (001021)
- c. 7.5km north east of the Mid-Clare Coast SPA (004182)

6.5. EIA Screening

6.5.1. An Environmental Impact Assessment Screening report has not been submitted with the application.

6.5.2. Class (10)(b) of Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for the following classes of development:

- Construction of more than 500 dwelling units,

It is proposed to develop 2 residential units for short term letting. This is well below the threshold of 500 dwelling units noted above.

6.5.3. Schedule 5, Part 1, Class 17 and Part 2 Class of the Planning and Development Regulations 2001 (as amended) provides that mandatory EIA is required for certain classes of agricultural development. The proposed development does not come within the identified criteria.

6.5.4. Having regard to the limited nature and scale of the proposed development it is considered that 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.

7.0 The Appeal

7.1. Grounds of Appeal

Two third party appeals were received from the following-

- Appeal 1- Mary and Michael Sexton, owners of the house directly across the road from the subject property and
- Appeal 2- Michael O'Connell.

The grounds of Appeal 1 can be summarised as follows:

- In order to achieve a sightline of 70m to the south east the existing roadside boundary will need to be setback for a minimum of 45 metres of the adjoining property owners land. A letter of consent is not submitted.
- The sightline to the north west will be a maximum of 35m. It is proposed to erect a Convex Road Safety Mirror which would require continuous supervision and maintenance.
- The TII report details the application is at variance with official policy in relation to the control of development affecting National Roads. A Traffic and Transport Assessment (TTA) was requested. To permit the development in the absence of a TTA would create a dangerous precedent and may contribute to future traffic safety concerns with possible legal consequences.
- There are serious concerns relating to wastewater treatment and disposal from the proposed residential accommodation and housing of animals in confined spaces.
- The proposals to house animals are not compliant with Teagasc regulations for the management and welfare of animals.
- There are no calculations submitted regarding the surface water run off and no assessment of the capacity of the existing storm water drainage system to receive additional run off.
- The Appellants home opposite the site is low lying and must be protected from surface water from the proposed development. If the current system is overloaded it will result in flooding of the Appellants property.

- There are no details relating to the proposed wastewater collection tank to the north of the site. The waste water system to the southern end is proposed to flow to a storm water attenuation tank which measures approximately 7m² and continues to a soakpit. There are no details of attenuation or capacity to control the flow or the capacity of the soak pit to retain receiving wastewater with disposal to groundwater.
- Proposals to reuse collected rainwater are not supported by calculations and technical details.
- A surface water drainage assessment is required. Condition 10 requires this to be submitted for agreement. The Appellants will not have an opportunity to assess and comment on the proposal.
- The further information submission does not address the issues of height and design. Unit 1 is not reflective nor proportional to existing buildings in the area. The Appellants will not have the opportunity to assess or comment on the revised proposals.
- Concerns of overlooking, overshadowing and overbearing in relation to unit 1 have not been addressed in the submitted FI.
- Basic Agri Tourism requirements and benefits as defined by Teagach are listed. The current proposal of housing animals in confined spaces does not achieve these and is not conducive to good husbandry.

The grounds of Appeal 2 can be summarised as follows-

- An increase in the volume of run off currently discharged from the site to the Appellants lands. There is a history of runoff from the Applicants land to the Appellants land. The matter was raised at the time of the previous application which was withdrawn and was raised in the subject application. The proposal will generate extra run-off surface water. Hydrological calculations have not been sought by the Planning Authority notwithstanding Condition 10. Such calculations cannot be challenged and the matters are material.

- The existing hard surface area is estimated at 500 sq.m and the proposal will be approximately 1,500 sq.m. This is a 200% increase in existing hard cover with an equivalent reduction in the area available to prevent run off.
- Condition 8 requires wheel washing during construction which will impact the Appellants land.
- The permitted proposal is overdevelopment of this restricted site.
- Condition 7 deals with the access to the site which requires works outside the redline boundary and is therefore ultra vires. The requirement is for a 13.5m entrance with splayed walls at 45 degrees and gates set back at 2.4m. The entrance road will have to travel over the percolation area for the existing septic tank serving the Applicants dwelling.
- There is no evidence service vehicles such as fire appliances or refuse trucks will be able to negotiate the entrance.
- It is risible to suggest visitors will spend any appreciable time on this 0.4 ha organic farm. This classification is a smokescreen for two holiday apartments.
- The proposal creates a scenario where 8 dwellings all serviced by on site wastewater treatment systems are located in a non-designated cluster with a density of 11 units per ha. This exceeds density prescribed for Milltown Malbay or Kilkee.
- The core strategy for Zone 3 details a density of 20 to the ha and 10 to the ha respectively for service towns and small towns. 10 to the ha for residentially zoned and 5 to the ha for low density residentially zoned land for large villages.
- Reference is made to the following sections of the Development Plan-
 - 10.3.5 Agri-Tourism Development
 - 9.3.9 Rural Tourism and Forestry Tourism and Objective CDP 9.10

The proposal does not have anything like the offerings suggested in paragraph b of Objective CDP 9.10 and is more akin to staying in a caravan park or town apartment.

- Inability to treat wastewater that will not impact on human and animal health

- There is a lack of detail relating to the proposed treatment unit and polishing filter i.e. section drawing. Bedrock is near the surface at 1.2m BGL in the trial hole. The bedrock has no capacity to facilitate vertical percolation. Percolation is lateral and will migrate to the Appellants land.
- The proposed polishing filter contravenes EPA COP 2009 in terms of separation distance from the road and boundary. These separation distances are insufficient to protect human and animal health.
- There was no consideration or reference to the existing septic tank serving the Applicants dwelling or if it has a percolation area and if one exists the proposed access road may travel over it.
- 8 dwellings in the immediate area will have independent on site wastewater treatment systems. Biological loadings are excessive in a small area.
- There are access difficulties and traffic safety matters.
- The requirement of condition 6 for a lay by and convex mirror is inappropriate mitigation. The layby will be on private property and can be used by the owner to store silage bales with the planning authority powerless to intervene.
- It is not clear how the Planning Authority can enforce a convex mirror. These are not appropriate planning conditions as per Ministerial Guidelines.
- The Planning Authority ignored the submissions of TII which recommended a TTA be carried out. Section A1.9.4, 8.2.3.3 of the Development Plan are referred to and provided. The Planning Authority have contravened its own plan in a material manner.
- Unfamiliar visitors to the site will be potentially arriving on a fortnightly basis at the busiest time of the year for the road network. Some of these maybe foreign. This is a recipe for disruption and inconvenience but more importantly a potential catastrophe.
- Impacts on existing residential amenity. The proposal is a commercial venture which in the correct setting would be laudable and encouraged. Revenue streams will dictate the type of guests accepted. Tourists will seek this setting long summer nights, partying into the night with beer and barbeques.

- The Planning Authority have had no regard to potable water supply or firefighting capabilities in this decision.
- Evidence of preplanning meetings should be required to be displayed on the planning file.

7.2. Applicant Response

The Applicant's response to the grounds of appeal from Mr Michael O'Connell can be summarised as follows-

- The Appellant showed no negative feeling towards the previous application 19/290 (withdrawn) which was larger than the current plans.
- The Applicants do not plan to flood neighbouring lands or properties. Inferring that there is run off from the Applicants property to the Appellants land is a scurrilous attempt to bolster an otherwise weak appeal.
- There is negligible additional building roof space proposed. Hardstanding will be serviced by gullies and connected to a storm water network. The development provides stormwater attenuation and rainwater harvesting which is an important element in the promotion of the enterprise and also in the education of families who will visit.
- Condition 10 requires the Applicants to engage a qualified professional to prepare SUDS calculations and analysis.
- The Applicants propose enhancing drainage on the lands as opposed to diminish it.
- The calculations of the Appellants are wildly inflated. The additional roof space proposed is less than 20 sq.m above what already exists on site. Proposed hardstanding areas including driveways and parking areas will be finished in light pea gravel and will be well serviced by the storm drainage including gullies.
- The contention the access road will travel over an existing percolation area is completely false and no evidence is provided. Ample room in the form of a

hammer head turning junction has been provided within the site to help fire appliances and refuse trucks to navigate the site.

- This site will be the best serviced site on the road. Bins will be brought to the edge of the road, like every other household and any other small business would.
- The assertion that there will be a negative impact for reasons of overdevelopment and overshadowing has no basis in fact, especially due to the condition 2 imposed. The Applicants are happy to comply with this condition and agreement will be reached with Clare County Council prior to the commencement of development which will omit any first floor space.
- The proposed development is located to the northeast of the neighbouring dwelling, the point where overshadowing is least possible due to orientation of the sun.
- The Appellant and/or his agent appear to be positioning themselves as agri-tourism experts where there is only one single vision of what is a genuine organic farm. The Applicants are in fact 100% genuine and not disingenuous as the Appellant's agent suggests and they take grave exception to this. Pat has farmed this land all of his life and has lived in this housing cluster for many years.
- Many years ago, Irish people lived and farmed in these types of housing clusters called clachans which were typically a cluster of small single storey cottages of farmers and/or fishermen, invariably found on poorer land. This organic farm enterprise will bring families to experience life on a clachan, with obvious modern conveniences. The education around clachans will be something to be imparted to staying guests.
- Visitors will be paying an all-in-one price which will include the activities of staying on the farm. This is much different from those who may stay in self-catering holiday homes in the area. The organic farm experience will be an immersive and educational experience.
- The Applicants will ensure compliance with Good Agricultural Practice Regulations 2017.

- The application adheres to the EPA Code of Practice for wastewater treatment and the Appellants assertion should be considered hearsay.
- The Applicants live approximately 30 metres from the proposed convex mirror so maintenance and supervision will not be a major issue. The proposed entrance is entirely in the Applicants property with no requirement to impose on neighbouring property.
- The road is a public road open to all road users. The development will serve to enhance and improve the road for all users.
- Clare County Council did not require a TTA assessment nor did TII make a submission to the Bord requiring this to be carried out. Clare County Council were within their rights to make their own call on the matter.
- The travel speeds on this type of road are typically under 30-40kmph and any assertion that higher speeds would be achievable by all road users is a misnomer. The designation of this road at 80kmph, like many other narrow roads throughout the country, is something which does not reflect the possible speeds.
- Competent drivers from other countries who can navigate their way from an airport to this location should have no difficulty navigating the 90 metres from the main road to the entrance to the development.
- It should also be highlighted that there are 2 units proposed here meaning there will typically be between 2 and 4 extra cars navigating the 90 metres distance a couple of times a day. This is also a location without much foliage or visual obstructions for drivers.
- The Applicants have made a conscious decision to eliminate insofar as is possible the potential impact on their neighbours properties and the proposed development will be no higher than the existing agricultural buildings.
- The proposed development would see the barn removed from its existing roadside location so that the gable is further from the edge of the road than it already is. This will no doubt improve matters of visibility for large agricultural plant and other road users.

- The proposed development is rooted in the Applicants agricultural roots so the contention that this is solely a commercial enterprise is a misrepresentation. The target market for this type of product offering is families and families only. The business plan submitted to Clare County Council makes this quite clear and to infer otherwise is an attempt to deceptively influence the Inspector.
- The Applicants live within this settled community and in fact are closest to the two proposed accommodation units and would ensure, for their own sake as much as anyone else's, that guests maintain good order.
- The Appellant's opinion that the minutes of pre-planning meetings are required to be displayed on the planning file' is nothing other than an opinion.
- The development will enhance the community with the freshly restored buildings, landscaped grounds, improved visibility on the road where Unit 1 will be located, the lay by will aid existing home owners and guests.
- The Applicants are steadfast in their approach to organic & responsible farming and believe that they have a marketable offering to city-dwelling (not confined to city dwellers of course) families with this small scale agri-tourism product.
- The regeneration of the existing unused farm buildings, the hay ban which is very close to the road, the old milking parlour and stone cabins with Moher flag roofs should be a welcome development in enhancing the surrounding residential amenity.

7.3. Planning Authority Response

A response has been dated the 11/02/21. It can be summarised as follows-

- The Applicants submitted a business plan with their application. They are full-time farmers and live adjacent to the site. They propose renovating existing farm buildings for accommodation units and developing an on-farm experience targeting tourists. The Applicants have engaged with Clare's LEO office.
- The following objectives and sections of the Development Plan have been considered- CDP3.16, 9.3.4, CDP 9.5 and CDP9.10.

- The local authority have distinguished between new holiday homes (CDP 3.16) and tourism enterprises such as the self-catering model proposed.
- Having regard to section 9.3.4 of the Development Plan it is considered that the Applicants have demonstrated a requirement for the proposal to location this rural context in proximity to their home and farm.
- Consideration was also given to CDP9.5 'Tourist Accommodation' which seeks to facilitate rural diversification which may encompass visitor accommodation. The subject accommodation is utilising existing brownfield unit no. 1 and cubicle house for accommodation unit no. 2 with an existing general farm building being used for the store for the proposed development. Other farm buildings are being retained.
- Consideration was also given to the provisions of CDP9.10 Rural Tourism and Forestry Tourism. It was considered the details submitted with the application are sufficient to show compliance with this objective.
- Consideration was also given to normal planning criteria including the impact of the proposal on visual and residential amenities, traffic safety and public health.
- The proposal effectively compromises an integrated tourism development rather than the provision of two standalone holiday units.
- At a national level there is broad support for rural enterprises and farm diversification in the NPF. The RSES considers that agriculture forestry, fishing resources base offers many opportunities for diverse enterprise development etc. The natural land assets that supports the agriculture sector is supported by the RSES. It was considered the workability of this Agri-tourism element of the proposed development as elaborated by the business plan was seen as integral to the proposed development rather than ancillary to the self-catering business- i.e. the development as a whole is an integrated product rather than the farming activities being distinct from the self-catering element.

- A condition of development requires the omission of the first floor of Unit No.1 in the interest of visual amenities. It is recommended this condition should be included if the Board grant permission.
- The Applicants successfully demonstrated that the site would be well managed and this includes wastewater treatment. The proposal will not be prejudicial to public health or impact upon the receiving environment.
- The Applicants proposed traffic safety measures. Traffic volumes on the serving road are relatively low. The road is a local territory road and the Planning Authority did not concur with the submission from TII. The TII did not appeal the decision. The proposal would not result in a traffic hazard.
- Conditions were attached to manage specific surface water proposals as well as rain water harvesting. Such conditions should be included if the Board grant permission.
- It is considered that many of the issues raised by the Appellants have been addressed by the Applicants and appropriate conditions.
- The Board are respectfully requested to uphold the decision.

7.4. **Observations**

- None

8.0 **Assessment**

8.1. **Introduction**

8.1.1. I consider the main issues in determining the appeal are as follows-

- Principle of the Development
- Residential, Visual and Rural Amenity
- Wastewater Treatment and Disposal
- Surface Water Management
- Traffic Safety

- Farm Animal Welfare
- Appropriate Assessment

8.2. Principle of the Development

- 8.2.1. The site is located within a rural area where the predominant land use is agriculture. The application site and landholding includes an existing agricultural complex and landholding surrounding two attached single storey houses.
- 8.2.2. An Appellant question the nature and intentions of the proposed development and considers it a smokescreen for a commercial venture and/or two residential units for rent. They argue the proposal does not offer anything like that provided for in paragraph 'b' of Development Plan Objective CDP9.10. It is also put forward that the proposed development will be overdevelopment of the area increasing density and breaching core strategy requirements.
- 8.2.3. The Applicants contend the proposed development is an organic farm/agri-tourism enterprise experience, ancillary to and in keeping with, the existing agricultural practise on their landholding.
- 8.2.4. In the Planning Authority's response to the appeal they refer to the following objectives of the Development Plan which the proposal was considered against-
- *CDP 3.16 New Single Homes in the Countryside*
 - *Section 9.3.4 Visitor Accommodation*
 - *CDP9.5 Development Plan Objective: Tourist Accommodation*
 - *CDP9.10 Development Plan Objective: Rural Tourism and Forestry Tourism*
- 8.2.5. I also note that section 10.3.3 of the Development Plan deals with 'Farm-based Rural Enterprise'. It details that the rural economy has the potential to offer many viable and sustainable employment opportunities and the Council will encourage and facilitate the development of small-scale rural enterprises where possible. The proposed development is a farm based rural enterprise. Objective CDP10.2 seeks to encourage and support the development of new farm-related enterprises and on and off farm employment activities as a means of promoting rural diversity and strengthening the local economic base.

- 8.2.6. The Planning Authority's response to the appeal refers to the submission of a 'business plan' with the application, which they carefully considered. I have not been able to identify the 'business plan' on the file before me. However, I note the submission of preplanning documentation dated 21/11/19. The accompanying submission dated 04/10/19 generally sets out the context for the development as an Organic Farming & Agri-Tourism proposal.
- 8.2.7. While the drawing accompanying the preplanning submission differ from the drawings that form the basis of the subject application, I am satisfied the development is not for two 'single homes' in the countryside and can be considered under section 9.3.4 and 10.3.3 of the County Development Plan having regard to Objectives CDP9.5, 9.10 and 10.2 of the Plan. In this context, it is not appropriate to consider the two units as new homes for the purpose of the core strategy or density requirements in this rural area. Furthermore, in this context, the proposal is not considered overdevelopment of the area by way of density.
- 8.2.8. As per section 9.3.4 it is appropriate that this form of tourism development, due to its nature, size and target market would locate outside of settlement boundaries. Objective CDP9.5 seeks to promote, encourage and facilitate the provision of new visitor accommodation and other tourist accommodation at appropriate locations and the redevelopment of brownfield sites in rural areas for tourist accommodation. Objective 9.10 seeks to promote and facilitate the development of rural tourism such as open farms, on-farm craft centres and visitor centres. It also promotes the provision of on-farm tourism enterprises such as the renovation of buildings for tourism purposes. Objective CDP10.2 seeks to encourage and support the development of new farm-related enterprises and on and off farm employment activities as a means of promoting rural diversity and strengthening the local economic base.
- 8.2.9. I am satisfied that in principle, the proposed development is an appropriate form of rural diversification by way of agri-tourism and use of an existing agricultural development for farm based rural enterprise. It's location in this rural area is entirely appropriate. The proposal is consistent with National and Regional policy documents as well as the objectives of the Clare County Development Plan 2017-2023.

- 8.2.10. However, I have some concerns in relation to the standalone nature of the application and the fact the Applicant's home is not located within the application site boundary and thereby providing a complete planning unit for overall site management purposes. In this regard, there is potential for the development to operate independently to the Applicants home which would be contrary to the principle of the development proposed. I also note a landholding map identifying lands within the Applicants control in blue, has not been submitted, although the Applicants home is identified on the site layout plan.
- 8.2.11. Given the overall site management requirement for the proposed development and for the purposes of ensuring the principle of the development, it is considered that should the Board decide to grant permission that it would be appropriate to attach a condition requiring the Applicants to enter into a section 47 agreement to ensure that the use of the permitted development shall be used solely in association with the Applicants home and landholding. The two accommodation units and lands subject to the application and agreement should not be sold, leased or subdivided save for through a separate planning application.

8.3. Residential, Visual and Rural Amenity

- 8.3.1. The Appellants raise a number of concerns relating to the impact of the development on amenities in the area.
- 8.3.2. Condition 2 of the Planning Authority's decision to grant permission specifies that proposed Unit 1 shall be single storey and the proposed mezzanine level shall be omitted. The Applicants have not appealed this condition and in their response to the appeal detail that they are happy to comply with it.
- 8.3.3. Unit 1 as shown on the drawings submitted in response to the Further Information (FI) request is in two blocks, each with a ridge of 3.63m and c 5m (I note the drawings show a dimension of 4.8m but this does not appear to reach the apex of the roof). The existing building being replaced is a typical agricultural shed style building with a curved roof and height of 5.65m. The proposed first floor roof extends for a short distance and is set back off the road edge. I acknowledge the site is located in a Heritage Landscape and is c. 80m north from a designated Scenic View i.e. the N67. Unit 1 is considered modest in scale and height, less visually imposing

than the existing agricultural building and would not have a significant impact that would detract from the visual amenity of the area.

- 8.3.4. However, the Applicants have not appealed the condition. It would, therefore, be unreasonable to restore the elements of the proposed development that were omitted by the condition on the basis of third party appeals where the grounds of those appeals objected to the development as a whole. Should the Board decide to grant permission it is recommended condition 2 be restated.
- 8.3.5. I note the Appellant's concerns in relation to overlooking, overshadowing and overbearing in relation to Unit 1. However, the proposed development is permitted as single storey, and is not excessively high. The nearest neighbouring house to Unit 1 is on the opposite side of the public road. Unit 1 will not lead to overlooking, will cause less overshadowing than currently exists which is not significant, and will not overbear neighbouring property in the area.
- 8.3.6. An Appellant has raised concerns relating to long summer nights and partying into the night with beer and barbeques. The Applicants challenge this highlighting that they live within the community and are closest to the two proposed accommodation units and would ensure the site remains in good order. This is considered a site management matter that will be managed through the conditions of let. I do not consider the proposal will impact negatively upon residential amenity and I do not share the Appellant's concern in this context.
- 8.3.7. Having considered all of the above I am satisfied that the proposed development will not significantly impact upon existing residential amenity and will not negatively detract from visual or rural amenity.

8.4. Wastewater Treatment and Disposal

- 8.4.1. The application proposes a new wastewater treatment system and polishing filter to serve the two proposed short term rental units. At Further Information (FI) stage concerns were raised in relation to the population equivalent of the entire development, the number of proposed residents and the location of the polishing filter in relation to a vegetable patch.
- 8.4.2. In response to the FI request, a revised Site Characterisation Report (SCR) was submitted on the 18/11/20 detailing four double bedrooms giving a maximum of 8

residents (increased from P.E. of 6 in original SCR). It proposes retaining the size of the polishing filter as originally proposed to reduce the loading rate to 44 litres per m² of percolation trench. The application proposes 6 trenches each 9m in length. The FI response details the new site layout plan shows a new location for the soil polishing filter which is no longer adjacent to the vegetable patch.

8.4.3. I have reviewed both site layout plan drawings submitted with the original application 11/06/20 (P/20/92/SL) and with the FI response dated 18/11/20 ((P/20/92/SL Rev. No.- FI 1). In these drawings the percolation/polishing filter area are shown in the same location to the south east corner of the site. However, the FI submission does show a vegetation growing area to the northern boundary of the site and away from the polishing filter. This is considered reasonable distant to the percolation/polishing filter area.

8.4.4. An Appellant has raised concerns in relation to wastewater treatment and disposal including-

- An overconcentration of wastewater treatment systems in the area
- Proximity of bedrock to the surface and potential lateral percolation to adjoining land
- Insufficient separation distances to the road and boundary.
- No consideration or reference to the existing septic tank serving the Applicants dwelling or if it has a percolation area.

8.4.5. Site Characterisation Reports were submitted with the application on the 11/06/20 and updated at FI stage on the 18/11/20. It is appropriate to consider the appeal against the 2009 Code of Practice: Wastewater Treatment Systems for Single Houses which was in place at that time. The purpose of this CoP as detailed in its preface is to provide guidance on the provision of wastewater treatment and disposal systems for new single houses with a population equivalent (p.e.) of less than or equal to 10.

8.4.6. The application is not for a single house and is proposed as an Organic Farming & Agri-Tourism development with residential accommodation. It could be considered a small business with a population equivalent of 8. Given this P.E. and the proposals relatively small size and scale, I do not consider it appropriate to consider the

application against the EPA's Wastewater Treatment Manuals - Treatment Systems for Small Communities, Business, Leisure Centres and Hotels.

- 8.4.7. Section 3.2 of the submitted SCR details the trial hole was dug to 1.2m where bedrock was encountered and no evidence of the water table is indicated. The percolation test result of 18.31 for the 'T' test was recorded using the standard method. A 'P' test was not carried because of the thin layer of topsoil that will not be used for the treatment process.
- 8.4.8. These test results indicates percolation values that are within the standards that would be considered acceptable for the operation of a wastewater treatment system set down under the EPA COP 2009. I also note that separation distances of the wwtp and polishing filter to site boundaries and the access roads comply with the standards set out in Table 6.1 of the COP (Page 14).
- 8.4.9. The application proposes removing 200mm of topsoil and laying a 500mm bed of distribution stone over the entire percolation area which will give 1m of suitable soil below the invert of the percolation bed to the bedrock. A cross section drawing is submitted. The FI SCR details the mechanical aeration unit will be revised to a PE of 8 but will maintain the original size of the percolation area. I note the PE proposed in the original SCR dated 11/06/20 proposes a PE capacity of 6.
- 8.4.10. Condition 2 of the decision to grant permission omits the mezzanine level to Unit 1. One of the justifications for this as set out in the Planners Report is to restrict the occupancy of the unit to 2 beds as per the revised SCR.
- 8.4.11. Having considered all of the above it would appear that the application site does have the capacity to treat and safely dispose of wastewater from the proposed development.
- 8.4.12. However, the wastewater treatment and disposal system is proposed as independent to the existing septic tank that serves the Applicant's house. This house is attached to a separate house giving a unusual scenario of two homes on a very small site. The submitted application drawings show the location of the existing septic tank that serves the existing house and this is located outside of the application site boundary. The drawings do not show the septic tank for the attached neighbouring house and do not show how wastewater from both homes is disposed of following primary treatment i.e. if there is one, two or even any percolation area or

polishing filter. During my site inspection I did observe three inspection chambers in the area identified on the drawings as the septic tank. There was evidence of poor drainage in this area with water ponding on site but I could not see any evidence of a percolation area/polishing filter if any. Furthermore there is no information on file detailing the population equivalent of either existing houses.

8.4.13. An Appellant raises concerns that the proposed site access road could be over the percolation area of the existing septic tank. The Applicants response to the appeal details that this is completely false and no evidence is provided. The response does not detail where the percolation area/polishing filter is or if there is one.

8.4.14. Table 6.1 of the Code of Practise (Page 14) details minimum separation distances and details required distances of septic tanks and percolation areas from site boundaries- 3m and roads- 4m. Houses should be 7m from septic tanks and 10m from percolation areas.

8.4.15. Using GIS resources available, I estimate the area of the remaining lands that are enclosed by the application site, including the two existing houses to be c. 0.1ha. If the proposed development is permitted it is difficult to see how these two houses could achieve independent percolation areas or polishing filters that would meet the separation distance requirements of 3m from site boundaries, 4m from roads and 10m from the houses. Given that the proposed development is to be a farm based rural enterprise which benefits from the Applicant's home in such close proximity to the enterprise, facilitating an overall site management role it is appropriate that wastewater management and disposal from the proposal and the Applicants existing home should be integrated into one overall planning unit.

8.4.16. In this context, and in the absence of any information on wastewater treatment and disposal from the two existing houses I am concerned that the proposed development could compromise the ability of the two existing houses to safely treat and dispose of wastewater and thereby cumulatively lead to a proliferation of inadequate wastewater treatment systems in the area discharging to the groundwater system and would as a result be prejudicial to public health. Accordingly this application should be refused.

8.5. Surface Water Management

- 8.5.1. The Appellants raise a number of surface water management concerns. They highlight the absence of calculations regarding run off and the capacity of the existing storm water drainage system to receive additional run off, the capacity of the soak pit to retain receiving wastewater with disposal to groundwater, the impact or run off on neighbouring properties, the proposed increase in size of hard surface area and the requirement of Condition 10 for a surface water drainage assessment to be submitted for agreement in which they will not be able to comment.
- 8.5.2. Condition 10 of the Planning Authority's decision requires the submission of a Surface Water Management Plan including calculations, capacity of pipes and drains, improvements to existing surface water drains, silt traps, attenuation tanks and Sustainable Urban Drainage Proposals for areas of hardstanding. Condition 10 (c) specifically details that no surface water shall be disposed off on lands outside the application site or to the wastewater treatment system.
- 8.5.3. While I appreciate the concerns of the Appellants, I consider the general requirements of Condition 10 of the Planning Authority's decision adequately deals with surface water issues. The condition clearly states that surface water from the development shall not dispose to neighbouring properties nor should it drain to the wastewater treatment system.
- 8.5.4. The proposed development does not provide a significant increase in buildings or hardstanding. Nor will it increase the amount of rain that falls on the site. In the Applicant's response to the appeal they detail the access road will be off light pea gravel served by gullies. The submitted drawings show a drainage channel at the proposed entrance and the location of soak pits throughout the site.
- 8.5.5. The submission of a Surface Water Management Plan as detailed in Condition 10 is considered an appropriate condition. Generally such conditions include for sustainable urban drainage systems and rainwater harvesting and the subsequent implementation of the agreed works are generally standard for most developments types. Such conditions do not lead to the implementation of significant works that compromise the rights of third parties to participate in the planning process. The submission of a Surface Water Management Plan and its implementation as per

condition 10 should lead to an overall improvement of surface water drainage on the site and consequently in the area.

8.6. Traffic Safety

- 8.6.1. The site is located on a very narrow local cul de sac road. The application proposes a site entrance to the south of the site and does not propose the use of the existing entrance to the Applicant's home. I note a third party submission at FI stage to the Planning Authority from the owners of the attached dwelling, which does not consent to the use of the existing entrance for the proposed development. Concerns in relation to the proposed entrance and traffic using the road to the site were raised in the Further Information request.
- 8.6.2. Drawing No. P/20/92/SL Rev No.- FI1 submitted in response to the FI request shows an entrance set back from the road edge with one splay wing northwards outside of the red line in lands that appear to be under the Applicants control. The drawing shows sightlines of 70m to the south which appear to be achieved over lands that are not under the Applicants control. The drawing also shows a sightline of 70m to the north.
- 8.6.3. The sightline to the north requires the utilisation of a proposed convex road safety mirror which is to be located on the opposite side of the road and will be maintained by the Applicants. This is not an appropriate way to achieve a sightline and I also note the report of the Council's Roads Design Office. In reality the achievable sightline to the north would appear to be c.35-40m.
- 8.6.4. The Applicants also proposes a lay by to the south of the proposed entrance on the opposite side of the road to the application site, in lands which appear to be within the Applicant's control.
- 8.6.5. Based on the FI submission the Planning Authority have noted the relatively low traffic volumes on the road and the limited scale of the development. They highlight that the road is relatively straight in terms of alignment and having regards to the operational speed of the road adequate sightlines have been demonstrated. It is not considered that the proposal will result in a traffic hazard.
- 8.6.6. Condition 7 of the Planning Authority's decision to grant required the entrance to be as per the details received on the 18/11/20. This includes the entrance to be set

back 2.4m with splayed wing walls at 45 degrees or bell mouthed to give an entrance width of 13.5m.

8.6.7. The appeal raises concerns in relation to proposals to achieve sightlines i.e. the use of a mirror and traversing lands outside the Applicant's ownership and the requirements of condition 7 for the entrance. They also highlight the submission of Transport Infrastructure Ireland (TII) and their requirement for a Transport and Traffic Assessment (TTA) which they consider has been overlooked by the council.

8.6.8. I note the TII's submission requiring the submission of a TTA. I have reviewed the Traffic and Transport Assessment Guidelines 2014 and Appendix 1 of the Clare County Development Plan- A1.9.4- Traffic Impact Assessments (TIA), Road Safety Audits and Road Safety Impact Assessments. I have considered-

- the thresholds at which the production of TTA's is recommended
- the advisory thresholds where National Roads are affected and
- the sub-threshold criteria for TTA

Having regard to the nature and small scale of the proposal, I do not consider the character and total number of trips in / out of the proposed development combined per day would be of such an amount as to cause road safety concerns nor will they cause congestion in the area. Therefore, I am satisfied a TTA is not required in this context.

8.6.9. However, I share some of the Appellant's concerns in relation to the proposed entrance. In this regard, there is no evidence on the file to suggest the Applicants own the lands to the south of the entrance. In order to achieve a 13.5m wide entrance as per condition 7 the entrance will need to be located further north and outside of the red line but within lands that appear to be under the Applicants control. In this context, condition 7 would not be ultra vires as it is within lands the Applicants control.

8.6.10. Appendix 1 of the County Development Plan, section A1.9.2 details requirements for entrance sight distances. Based on a 'Design Speed of Major Road (kph)' a speed limit of 85kph requires a Y distance of 160m and for 50kph a Y distance of 70m. The road serving the site is a cul de sac and very narrow. It cannot be considered a 'Major Road'. The road is relatively straight from the N67 to the point near the

entrance of the Applicants house and adjoining house. Forward visibility around this point northwards serves to slow traffic further in both directions. Given the carrying capacity, operational speed of the road and the reduced visibility at the point of the houses it is unlikely that traffic visiting the site would be travelling at speeds in excess of 50kph. In this context, it is appropriate to consider reduced sightline requirements. Subject to providing a splayed or bell shaped entrance in accordance with the local authority requirements and on lands within the Applicants control, sufficient sightlines can be achieved to provide an entrance to the site that would not cause a significant traffic hazard or endanger public safety.

8.7. Farm Animal Welfare

- 8.7.1. The Appellants raise concerns in relation to the keeping of animals on the site and the housing of animals in confined spaces. It is considered the proposals will not comply with animal welfare regulations.
- 8.7.2. Condition 13 of the Planning Authority's decision to grant permission requires the keeping of animals to comply with the requirements of the Good Agricultural Practice Regulations 2017 as amended. I am satisfied that this condition adequately addresses concerns in this regard.
- 8.7.3. The Applicant's response to the FI request details that animals will not be housed on the site and as such storage effluent storage is not required. A map is included showing the location of an 'existing slatted house' elsewhere on the landholding. Drawing No. P/20/9/2SL Rev. No.-F11 shows that the site will provide grazing areas for cows, sheep, ponies and chickens.
- 8.7.4. It is clear the application does not propose animal housing structures or animal waste storage and the Applicant's indicate in their response to the appeal that they intend to rotate animals to the site for the purpose of the 'farm experience'. I do not agree with the Appellant's concerns in this regard. Should the Board decide to grant permission I am satisfied a condition similar to that of the Planning Authority's condition 13 would be appropriate.

8.8. **Appropriate Assessment**

8.8.1. **Introduction**

- a) A screening report for Appropriate Assessment was not submitted with this application or appeal. Therefore, this screening assessment has been carried de-novo.
- b) In the first Planning Report in the section titled Appropriate Assessment it is considered that the nature and scale of the proposed development and the absence of proximity or connectivity to a European Site that no appropriate assessment issues arise. It is also considered that there will be a no significant effect individually or in combination with other plans or projects on any European Sites. The Planning Authority have also carried out a Screening Report for Appropriate Assessment & Determination dated 31/07/20.

8.8.2. **Stage 1 Screening**

- a) The project is not directly connected with or necessary to the management of a European Site and therefore it needs to be determined if the development is likely to have significant effects on European sites. The proposed development is examined in relation to any possible interaction with European sites designated Special Conservation Areas (SAC) and Special Protection Areas (SPA) to assess whether it may give rise to significant effects on such European Sites.

8.8.3. **The Proposed Development and Receiving Environment**

- a) The proposed development comprises the development of an organic farm enterprise including redevelopment of existing farm buildings for the purpose of short term guest accommodation units, a store and a workshop, animal enclosures and a greenhouse with sewerage treatment and water facilities.
- b) The site is located an existing rural area with agriculture being the predominant land use in the area.
- c) The site is not located within or adjoining a designated European site.

8.8.4. **European Sites**

- a) Given the location of the site, and the nature and scale of the proposed development, I consider the designated site as set out in Table 1 below to be within the zone of influence of the subject site.
- b) I am satisfied that other European sites proximate to the appeal site (including those identified in section 6.4 above) can be 'screened out' on the basis that significant impacts on such European sites can be ruled out, either as a result of the separation distance from the appeal site, the extent of marine waters or given the absence of any direct or indirect hydrological or other pathway from the appeal site to European Sites.

Table 1		
European Site and code	Qualifying Interests	Distance
Inagh River Estuary SAC 000036	<ul style="list-style-type: none"> • 1310 Salicornia and other annuals colonising mud and sand • 1330 Atlantic salt meadows (<i>Glauco-Puccinellietalia maritimae</i>) • 1410 Mediterranean salt meadows (<i>Juncetalia maritimi</i>) • 2120 Shifting dunes along the shoreline with <i>Ammophila arenaria</i> (white dunes) • 2130 Fixed coastal dunes with herbaceous vegetation (grey dunes) 	c. 3.5km north of the site

8.8.5. **Test of Likely Significant Effects**

- a. The project is not directly connected to or necessary to the management of any European site. The proposed development is examined in relation to any possible interaction with European sites to assess whether it may give rise to significant effects on any European Site in view of the conservation objectives of those sites.
- b. Based on the source-pathway-receptor model and having regard to the existing agricultural use of the site, the nature of the proposed development, the scale of works proposed, the distance to identified European sites and having regard to the NIS carried out for the County Development Plan including the identified conditions underpinning European Site integrity and implications for this site, the following are considered for examination in terms of likely significant effects on European sites-
- Water quality

- Appropriate agricultural practices including grazing pressures

8.8.6. **Potential Effects**

- a. The application proposes a packaged wastewater treatment system and polishing filter with final discharge to groundwater. The application also proposes a number of on site agricultural practices such as animal grazing.
- b. The application site is located c.3.5 km south of the identified boundary of the Inagh River Estuary SAC. Wastewater will be sufficiently treated and disposed to ground water. There are no direct or indirect hydrological connections to the SAC.
- c. The agricultural practices on the site are relatively small scale and generally involve grazing. They will be subject to the requirements of the Good Agricultural Practices Regulations 2017. The site is significantly removed from the SAC and there are no direct or indirect connections.

8.8.7. **In-combination Impacts**

- a) The subject application should be considered as part of the wider development of Clare as part of the County Development Plan. The Plan was also subject to AA by the Local Authority.
- b) I do not consider there to be any other specific recent planning applications in the immediate area that could have in-combination effects with the proposed development on the identified European Site.

8.8.8. **Conclusion**

The proposed development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000 as amended. Having carried out Screening for Appropriate Assessment of the project, it has been concluded that the project individually (or in combination with other plans or projects) would not be likely to have a significant effect on the following European Sites-

- Inagh River Estuary SAC (000036)

- or any other European sites, in light of those sites' Conservation Objectives', and a Stage 2 Appropriate Assessment and the submission of a Natura Impact Statement is not therefore required.

In reaching this conclusion, I took no account of mitigation measures intended to avoid or reduce the potentially harmful effects of the project on any European Sites.

9.0 Recommendation

- 9.1. It is recommended that the proposed development is refused for the reasons and considerations as set out below.

10.0 Reasons and Considerations

1. In the absence of information in relation to wastewater treatment and disposal from the two houses which the application site surrounds, the Board considers that the proposed development would compromise the ability of existing houses to achieve adequate wastewater treatment and disposal to ground water and cumulatively would result in a proliferation of wastewater treatment systems discharging to the groundwater system. It is considered therefore, that the proposed development would be prejudicial to public health.

Adrian Ormsby
Planning Inspector

06th of April 2022