



An
Bord
Pleanála

Inspector's Report ABP-310491-21

Development	Construction of a dwelling house, a wastewater treatment system and ancillary site works
Location	Moybeg, Lahinch, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21/99
Applicant(s)	Sinead Hayes
Type of Application	Permission
Planning Authority Decision	Refuse Permission
Type of Appeal	First Party
Appellant(s)	Sinead Hayes
Observer(s)	None
Date of Site Inspection	29 th January 2022
Inspector	M Commane

1.0 Site Location and Description

- 1.1. The subject site comprises a 2.224Ha parcel of land in Moybeg, Lahinch, Co. Clare. The subject site sits in an elevated area, with unobstructed views in a northwards, eastwards and westwards direction. More specifically, it overlooks the N67 scenic route and Lahinch Bay and situated within the Cliffs of Moher and Lahinch landscape character area. The site sits within a settled landscape. There is a level difference across the subject site, falling by c. 17 metres from south to north. There are two access routes to the subject site, one from Toor to the south and one from the N67 to the north.
- 1.2. The area surrounding the subject site comprises agricultural land. There are 2 existing dwellings located proximate to the subject site. To the south, is the appellant's parents single storey dwelling and to the east, an old single storey farmhouse and associated outbuildings.

2.0 Proposed Development

- 2.1. Planning permission was submitted on the 11th February 2021 for the construction of a detached 215 sq. metre 3 no. bedroom dwelling with a maximum height of 5.244 metres. The dwelling has a contemporary design and materials and finishes comprise plaster finish, local stone and slate roof tiles. Access to the dwelling is proposed in the south-western corner of the site via an access road shared with the appellant's farmhouse.
- 2.2. Infrastructure services proposed are as follows:
 - Water Supply – private well.
 - Wastewater Treatment – new WWTS.
 - Surface Water disposal – soakpit.
- 2.3. The application was accompanied by a cover letter setting out the applicants "local need" and a Site Characterisation Report.
- 2.4. The following further information was submitted on 20th April 2021:

- A contiguous elevation demonstrating how the proposed development will appear in the context of the development permitted under Reg. Ref. PI20/403 which is located to the west.
- Clarification regarding the proposed entrance to the site being from the junction in Toor to the south of the site.

2.5. Decision

To Refuse Permission for the following 2 no. reasons:

1. *It is considered that the proposed development would endanger public safety by reason of traffic hazard due to the intensification of use of an existing agricultural access onto a heavily trafficked N67 national route at a point where the general speed limit applies and where sightlines are severely restricted. Furthermore, it is considered that the additional traffic turning movements generated by the proposed development would interfere with the safety and free flow of traffic on the public road and would contravene CDP Objective 8.4 'Direct Access onto National Routes' of the Clare Co. Development Plan 2017-2023 as varied to preserve the level of service and carrying capacity of the National road and to protect public investment in the road. Accordingly, it is considered that the proposed development by itself and by the precedent which the grant of permission for it would set for other relevant development would adversely affect the use of the national road network. The proposed development would therefore be contrary to the proposed development of the area.*
2. *The proposed development is located as a visually prominent area in elevated landscapes overlooking a scenic route and heritage landscape designated area. By reason of the sites location it is considered that the development as proposed would constitute an excessively prominent feature on the landscape being clearly visible when viewed from a wide area, and would adversely interfere with the views and prospects available from the scenic route on the N67, the protection of which is an objective under CDP 13.7 of the Clare County Development Plan 2017-2023 as varied. Furthermore, the proposed development if permitted would set an undesirable precedent for similar development along this ridge and would contravene CDP Objective 13.2 'Settled landscapes' 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.”

2.6. Planning Authority Reports

2.6.1. Planning Report

- The Case Planner in their first report sought further information in relation to: -
(i) how the proposed development will appear in the context of the development permitted under Reg. Ref. PI20/403 which is located to the west; and (ii) the proposed entrance to the site being from the junction in Toor to the south of the site. Further information was sought on the 6th April 2021.
- The Case Planner in their second report and having considered the further information submitted recommended that permission be refused (in light of the concerns discussed below). The notification of decision to refuse permission issued by Clare County Council reflects this recommendation.
- It is considered that the development will be more visually prominent than the neighbouring properties given the site's exposed location, on the leeward side of the hill which is fully visible from the N67 scenic route below, and the absence of vegetation to break long range views. Although the house has been designed in such a way as to minimise its visual impact, the proposed development would set an undesirable precedence for similar one off newbuild houses along a visually prominent ridge and this would adversely affect visual amenity.
- Although the applicant proposes to use the right of way from the junction in Toor to the south as their means of access, it would be reasonable to assume that access from the N67 is more direct/shorter and is likely to be used by the applicant given its convenience and the investment recently made in it under the Local Improvement Scheme. The condition preventing use of the access from the N67, suggested by the applicant, was not considered to be enforceable. Similarly, closure of the existing access to the N67 could not be required by condition as this access appears to be shared with other parties. In light of the foregoing, refusal of permission was recommended in accordance with CDP Objective 8.4 Direct Access onto National Routes and the concerns

of the West Clare Municipal DA Office. It was considered that the proposed development would endanger public safety by reason of traffic hazard due to the intensification of use of an existing agricultural access onto the heavily trafficked N67 National Route at a point where the general speed limit applies, and sightlines are severely restricted.

- The applicant was deemed to qualify as a local rural person and have a genuine housing need.
- It was not considered that the proposed development will have any adverse impact on residential amenity of nearby dwellings by way of overlooking or overshadowing given the separation distances featuring.

2.6.2. **Other Technical Reports**

West Clare Municipal DA Office (16/03/2021): Recommends refusal on the basis that there is an additional recently upgraded access road to the north onto the N67, a heavily trafficked National Secondary road forming part of the Wild Atlantic Way, and it is reasonable to assume that the proposed development would be accessed via the N67, at a point where a speed limit of 80kmph applies and any additional turning movements generated by this development would interfere with safety and traffic flow on the N67.

Environmental Section (22/03/2021): No objection, subject to conditions.

2.7. **Prescribed Bodies**

Transport Infrastructure Ireland (11/05/2021): no observations to make.

2.8. **Third Party Observations**

None.

3.0 **Planning History**

3.1. **Subject Site**

3.1.1. There have been no previous applications pertaining to the subject site. The Planners Report referred to 1 no. previously planning application (for construction of a house,

garage and proprietary treatment system under Reg. Ref. 05/61) which encompassed part of the subject site. However, this application was withdrawn prior to a determination being made.

3.2. **Adjacent Sites**

3.2.1. There have been 2 no. previous applications pertaining to adjacent sites, details of which are provided below.

3.2.2. The Planners Report also referred to 3 no. previous planning applications (under Reg. Refs. 05/2236, 06/1821 and 07/6001) pertaining to adjacent sites which sought permission for the construction of dwelling house, garage and septic tank which encompassed part of the subject site. However, these applications were withdrawn prior to a determination being made.

PA Reference 20/403

Permission granted on 27th October 2020 for alterations / demolitions to existing derelict dwelling house and outbuildings and the construction of a new extension, garage, sewer treatment system and associated site works and services. This application relates to a site located immediately west of the current application.

PA Reference 08/1409

Permission granted on 28th October 2008 to repair, renovate and extend existing dwelling house, new site entrance, and waste water treatment plant, together with all ancillary site works. This application relates to the applicant's parents' house located directly south of the current application.

4.0 **Policy Context**

4.1. **Development Plan**

4.1.1. The operative plan for this area is the Clare County Development Plan 2017 – 2023. Objectives and policies relevant to this case are as follows:

4.1.2. The site is located is within an '**Area of Special Control**', more specifically a '**rural area under strong urban pressure**'. In this regard, **Objective CDP 3.11** is relevant for consideration of the subject application. Objective CDP 3.11 seeks to:

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

- *Areas under Strong Urban Pressure;*
- *Heritage Landscapes;*
- *Sites accessed from Scenic Routes.*

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 below and meets the necessary criteria.

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.'

4.1.3. Categories A, B and C refer to local rural persons, persons working full time or part-time in rural areas and persons with exceptional health and/or family circumstances, respectively.

4.1.4. The subject site is located in a '**settled landscape**'. In this regard, **Objective CDP 13.2** is relevant for consideration of the subject application. Objective CDP 13.2 seeks: '*To permit development in areas designated as 'settled landscapes' that sustain and enhance quality of life and residential amenity and promote economic activity subject to:*

- Conformity with all other relevant provisions of the Plan and the availability and protection of resources;*
- Selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design which are directed towards minimising visual impacts;*
- Regard being given to avoiding intrusions on scenic routes and on ridges or shorelines.*

Developments in these areas will be required to demonstrate:

- *That the site has been selected to avoid visually prominent locations;*

- *That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads;*
- *That design for buildings and structures reduce visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.'*

4.1.5. The subject site is located off a **designated Scenic Route**, the N67. In this regard, **Objective CDP 13.7** is relevant for consideration of the subject application. Objective CDP 13.7 reads as follows:

'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.'*

4.1.6. The N67 is a **National Road**. In this regard, **Objective CDP 8.4** is relevant for consideration of the subject application. Objective CDP 8.4 reads as follows:

'It is an objective of Clare County Council

- A. To safeguard the safety, efficiency and carrying capacity of national primary and secondary roads within the County in line with national policy.*
- B. To assess development proposal requiring direct access onto the national road network having regard to criteria set out in Section 8.2.3.3.'*

4.1.7. The relevant part of Section 8.2.3.3 read as follows:

'Lands adjoining National Roads to which Speed Limits of Greater than 60km/h apply
The policy of the Planning Authority will be to avoid the creation of any additional access points from new developments or the generation of increased traffic from existing accesses to national roads to which speed limits of greater than 60km/h apply in accordance with 'Spatial Planning and National Roads – Guidelines for Planning

Authorities (2012)', subject to the exceptional circumstances as set out below. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.'

4.2. Sustainable Rural Housing Guidelines (2005)

4.2.1. The overarching aim of the Guidelines is to ensure that people who are part of rural community should be facilitated by the planning system in all rural areas, including those under strong urban based pressures. To ensure that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.

4.3. National Planning Framework – Project Ireland 2040, Department of Housing, Planning and Local Government (2018)

4.3.1. National Policy Objective 19 refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence i.e commute catchment of cities and large towns and centres of employment. This will be subject to siting and design considerations. In all cases the protection of ground and surface water quality shall remain the overriding priority and proposals must definitely demonstrate that the proposed development will not have an adverse impact on water quality and requirements set out in EU and national legislation and guidance documents.

4.4. Spatial Planning and National Roads – Guidelines for Planning Authorities (2012)

4.4.1. These guidelines set out planning policy considerations relating to development affecting national primary and secondary roads, including motorways and associated junctions, outside the 50-60 kmh speed limit zones for cities, towns and villages. Section 2.5 sets out the following in relation to lands adjoining National Roads to which speed limits greater than 60 kmh apply:

'The policy of the planning authority will be to avoid the creation of any additional access point from new development or the generation of increased traffic from existing accesses to national roads to which speed limits greater than 60 kmh apply. This provision applies to all categories of development, including individual houses in rural areas, regardless of the housing circumstances of the applicant.'

4.5. Natural Heritage Designations

4.5.1. None in the immediate vicinity of the subject site. It is noted that the Inagh River Estuary SAC (Site Code 000036) and Mid Clare Coast SPA (Site Code 004182) are within 3.3km and 8km of the subject site, respectively.

4.6. EIA Screening

4.6.1. Having regard to the nature and scale of the proposed development, which involves the construction of a single dwelling, wastewater treatment system and ancillary site works, 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.

5.0 The Appeal

5.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The proposed site does not adjoin the N67 and does not have any access way onto the N67 either directly or indirectly. Access to the proposed site is via an existing right of way through the applicant's parents' landholding to the south which leads to Toor. Permission was refused by Clare County Council on the basis of a wildly incorrect and disingenuous assertion that the proposed development is accessed via *'the heavily trafficked N67 National Route'*. No reference is made to the private road to the south which was constructed by the applicant's parents as a condition of planning permission under Reg. Ref.

P08/1409 and part of which was recently upgraded at the joint expense of the road users, residents and farmers.

- The agricultural road off the N67 was recently upgraded with funding from 7 landowners and is not a road which is open to persons other than those landowners.
- The appellant is happy to enter into an agreement, under Section 47 of the Planning and Development Act, to not use the applicable agricultural road off the N67 for access.
- This refusal is inconsistent and in direct contradiction with the development permitted by Clare County Council under Reg. Ref. P20/403 which uses the exact same access road. Under Reg. Ref. P20/403, the Planning Authority had no issue with an existing direct route onto the N67 because the development proposed using a private right of way to the rear of the property instead.
- The TII did not make a submission on the proposed development. The appellant feels that the views of the TII, who based on the plans had no objection or issue with the development and did not make a submission, were not given due consideration by the Planning Authority.
- The appellant considers, having regard to the objectives contained within the Clare County Development Plan 2017-2023, that the details as submitted with the application are sufficient to demonstrate compliance with the objectives, planning criteria and in particular the potential impact of the proposed development on visual amenities.
- There are a series of roads which run from the N67 southwards providing access to various houses developed in a dispersed pattern at various levels along the ridge. These houses are visible and very prominent in the open landscape.
- The design approach adopted is similar to that employed under Reg. Ref. P20/403, which can be seen from the N67 and is considered to integrate successfully.
- As illustrated in the further information drawings submitted, the appellant's family home and the development recently approved under Reg. Ref. P20/403

are at a much higher elevation than the proposed dwelling and the location/design of the proposed dwelling has little or no impact on the landscape location.

- Should the Board have any concerns with the proposed dwelling, the appellant is willing to accept a condition to further lower the floor level, to use excavated material to mound and integrate the house into the landscape and plant these mounded areas with appropriate suitable mature trees/shrubs.
- The appellant demonstrates compliance with not one but 3 no. categories of applicant outlined in relation to the one-off housing in the countryside policy included in the Clare County Development Plan 2017-2023. The Planning Authority have not taken this objective into consideration which is in direct contravention of the Development Plan.

5.2. Planning Authority Response

The Planning Authority's response can be summarised as follows:

- In the respect of Refusal Reason 1, based on the fact that the site can be accessed via the N67 and there are no physical barriers to prevent access, the Planning Authority in determining this application had to allow for the reasonable possibility that such access could be used by either the applicant, applicant's family, visitors to the house, construction traffic, delivery vehicles etc. While the appellant is suggesting that access to the site will be restricted to via Toor Road only, there is no means of restricting other road users visiting the proposed house from using the N67. The Planning Authority would therefore consider that the issue of traffic safety has not been satisfactorily resolved by the appellant.
- In the respect of Refusal Reason 2, the site is highly visible from the N67, from which there are long range uninterrupted views both towards the sea and landwards towards the ridge. There are also long range unobstructed views of the sea from the site towards Lahinch Bay. The proposed development would represent an incongruous feature on the landscape and would set an

undesirable precedent for the granting of similar development nearby at equally sensitive locations resulting in the gradual and incremental deterioration in the quality and character of the landscape in the vicinity. Contrary to the suggestion made by the Appellant, the two developments, Reg. Refs. P21/99 and P20/403, are not directly comparable as the application under Reg. Ref. P20/403 was for permission to carry out alterations/demolitions to an existing derelict dwelling house/out buildings and construct a new extension, garage and sewer treatment system. Therefore, it was determined having regard to CDP 3.15 'Refurbishment of a Derelict Dwelling/Structure in the Countryside' and not CDP 3.11 as was the relevant policy in the context of the subject application.

- The Planning Authority concluded by requesting that An Bord Pleanala uphold their decision.

5.3. **Observations**

- None

5.4. **Further Responses**

- None

6.0 **Assessment**

From my reading of the file, inspection of the site and assessment of the relevant policy provisions, I conclude that the key issues raised by the appeal are:

- Principle of Development
- Access and Traffic
- Design and Visual Impact
- Residential Amenity
- Other Matters
- Appropriate Assessment

6.1. Principle of Development

6.1.1. The site is located within an “Area of Special Control” (Strong Urban Pressure) for which it is the policy of the Planning Authority, under Objective 3.11 (New Single Houses in the Countryside within the ‘Areas of Special Control’), to permit single house development for permanent occupation by persons from the locality and/or working full or part time in rural areas, or who have exceptional health or family circumstances.

6.1.2. Having regard to the information available the applicant would appear to merit consideration under Category A – Local Rural Person. There are 3 no criteria to be used in assessing applicants under Category A:

- 1) The applicant must come within the definition of a “Local Rural Person”;
- 2) The proposed site must be situated within their “Local Rural Area”; and
- 3) The applicant must have a “Local Rural Housing Need”.

6.1.3. With regards to the Local Rural Person criteria – I refer to the planning application form. The applicant has lived within a 7km radius of the family home (permitted under 08/1409) for a cumulative period of 15 years since 1981, including the immediately preceding 12 years. I refer to the map accompanying the application showing the location of the applicant’s family home and the appeal site. The site is approx. 300 metres from the applicant’s family home. The applicant currently works/resides in Ennistymon, c. 7km from their home. Having regard to the information available with the appeal file I am satisfied that the applicant comes within the definition of a “Local Rural Person” i.e. a person who has lived permanently in the local rural area for a substantial period of their life.

6.1.4. With regards to the Local Rural Area criteria - The “Local Rural Area” for the purpose of this objective, is defined as the rural area generally within a 10km radius of where the applicant was born, living or has lived (for a substantial period of their life as per “local rural person”). As stated, the applicant has lived within a 7km radius of the family home at Lahinch (immediately adjacent to the subject site) since 1981. Accordingly, I am satisfied that the site is situated within the applicants “Local Rural Area”.

6.1.5. With regards to the Local Rural Housing Need criteria – An applicant who satisfies a ‘Local Rural Housing Need’ is defined as a person who does not or has not ever owned a house in the surrounding rural area (except in exceptional circumstances) and has the need for a dwelling for their own permanent occupation. I refer to the application form and first party appeal submission where it states that the proposed dwelling will be the applicants permanent place of residence and that they are inheriting the site from her parents. Although, the applicant currently owns a house proximate to the subject site, it is located in the nearby town of Ennistymon as opposed to a rural area. Further to this, it is worth noting that Clare County Council have been granted planning permission, pursuant to Part VIII of the Planning and Development Act, 2000 (as amended), to demolish the Applicant’s existing family home. Having regard to the foregoing, I am satisfied that the applicant has demonstrated a ‘Local Rural Housing Need’.

6.1.6. The Case Planner was satisfied that the applicant qualified as a local rural person and that they have a housing need given that they have not been granted permission for a house in her rural area to date. The Planning Authority’s satisfaction that the applicant’s circumstances satisfy eligibility criteria is considered reasonable and I support the conclusions that compliance with the Category A – Local Rural Person criteria has been demonstrated.

6.2. **Access and Traffic**

6.2.1. With regards to access and traffic, the Planning Authority’s principal objection in this regard is that the proposed development would endanger public safety by reason of traffic hazard due to the intensification of use of an existing agricultural access onto a heavily trafficked N67 national route at a point where the general speed limit applies and where sightlines are severely restricted. They also consider that the resultant additional traffic turning movements from the proposed development would interfere with the safety and free flow of traffic on the public road and would contravene CDP Objective 8.4 ‘Direct Access onto National Routes’ of the Development Plan.

6.2.2. The applicant refutes this argument stating that access to the proposed site is via an existing right of way through the applicant’s parents’ landholding to the south which leads to Toor (constructed pursuant to a condition of planning permission under Reg.

Ref. P08/1409) and the proposed site does not have any access way onto the N67 either directly or indirectly. The agricultural road off the N67 was recently upgraded with funding from 7 landowners and is not a road which is open to persons other than those landowners. They have expressed a willingness to enter into an agreement, under Section 47 of the Planning and Development Act, to not use the applicable agricultural road off the N67 for access.

6.2.3. Having recently visited the site, I would share the same concerns as the Planning Authority regarding access to the site. Although access is proposed from the right of the way to the south, the site is more easily and directly accessible via the agricultural road off the N67 to the north of the site. In fact, anyone unfamiliar with the site using google maps or a satellite navigation system to navigate their way there (which is common nowadays) would be directed towards the site via this northerly access route, even if coming from the south. Further to this, the surfacing of this northerly access is of a higher quality than that featuring on the southerly access which would further entice drivers frequenting the site to use the northerly access route.

6.2.4. While the applicant's willingness to enter into a Section 47 agreement restricting access via the southerly access route is acknowledged, it is hard to see how such a restriction could be implemented in practical terms. In the absence of physical barriers, there is no means of restricting other road users visiting the proposed house from using the N67. The introduction of such physical barriers/any restrictions on access to the N67 via this agricultural road is problematic given there is access for at least 7 landowners which must be maintained.

6.2.5. Having regard to the anticipated access/additional traffic to the N67 generated by the proposed dwelling, the 80kmph speed limit applying the applicable stretch of the N67 and the limited sightlines available at the intersection with the applicable agricultural road, it is considered that the proposed development will have a material adverse impact on traffic/road safety on the N67 National Road and will be contrary to Objective CDP 8.4 of the current Development Plan and the Spatial Planning and National Roads – Guidelines for Planning Authorities (2012). Therefore, it is recommended that permission be refused in this instance.

6.3. Design and Visual Impact

6.3.1. With regard to the design and visual impact of the proposed house, I refer to Objective CDP13.2: Settled Landscapes where it states that developments in these areas will be required to demonstrate that the site inter alia has been selected to avoid visually prominent locations; and that the design reduces visual impact through careful choice of forms, finishes and colours. I also refer to Objective CDP13.7: Scenic Routes which seeks 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.

6.3.2. I refer to the site photos. This is an exposed sloping rural site that affords uninterrupted views to the west, north and east and taken together with its location above the level of nearby N67 scenic route to the north, is clearly visible from passing traffic. It is my view that any development at this location requires careful consideration and treatment in order to avoid creating a visually intrusive development that would detract from this sensitive and exposed rural landscape as well as the N67 Scenic Route.

6.3.3. With regards to design and visual impact, the Planning Authority's principal objection in this regard is that the proposed development would constitute an excessively prominent feature on the landscape being clearly visible when viewed from a wide area, and would adversely interfere with the views and prospects available from the scenic route on the N67. Furthermore, they contend that the proposed development if permitted would set an undesirable precedent for similar development along this ridge and would contravene CDP Objective 13.2 'Settled landscapes'.

6.3.4. The applicant argues that their parent's home and the development recently approved under Reg. Ref. P20/403 are at a much higher elevation than the proposed dwelling and the location/ design of the proposed dwelling has little or no impact on the landscape location. They contend that any remaining concerns the Board may have regarding visual impact could be addressed by way of condition requiring the floor level be lowered further and/or excavated material be used to mound and integrate the house into the landscape and these mounded areas be planted with appropriate suitable mature trees/shrubs.

- 6.3.5. I acknowledge that efforts have been made by the applicant to minimise the potential impact of the subject proposal, the proposed dwelling adopting a 'H' shape to limit its width/stagger its built form and being limited to single storey. However, given the steeply sloping nature of the subject site and the land to the north, these design solutions are insufficient to significantly reduce the proposed dwelling's visual impact. Although the applicant's parent's home and the development recently approved under Reg. Ref. P20/403 sit at a higher level than the proposed dwelling, they are less exposed than the proposed dwelling, views of these neighbouring being shielded by the brow of the applicable hill. The subject site, although it sits at a lower level, is highly visible due to its position on the leeward side of the hill and the dramatic change in gradient across the subject site/the land to the north.
- 6.3.6. With regards to the revisions by way of condition suggested by the applicant, given the dramatic change in gradient across the subject site/the land to the north I do not consider that such a reduction in floor level and/or the addition of mounds utilising excavated material/planting of the same would sufficiently reduce the visual impact of the proposed development to warrant approval of the proposed development in this instance. Further to this, such a lowering of levels/introduction of mounds would have implications for drainage of the subject site and the proposed wastewater treatment system that have not been assessed by the applicant in putting forward these suggested conditions.
- 6.3.7. Having regard to the topography and elevated/exposed nature of the subject site and the subject site being located within a 'Settled Landscape' and proximate to the N67 Scenic Route, I am of the view that the proposed dwelling will have a negative visual impact on the sensitive, exposed and scenic rural landscape within which it sits and would adversely interfere with the views and prospects available from the N67 Scenic Route. Given this, the proposed development will be contrary to Objective CDP 13.2 and Objective CDP 13.7 of the current Development Plan Therefore, it is recommended that permission be refused in this instance.

6.4. Residential Amenity

Proposed Dwelling

- 6.4.1. The proposed dwelling has a total floor area of 215sqm. Having reviewed the proposed floor plan, I am satisfied that the house is suitably designed and adequately sized internally to provide an adequate level of residential amenity to future residents
- 6.4.2. The exact size of the private open space proposed to serve the proposed dwelling is not specified in the application material. However, upon review of the plans submitted, it would appear that the proposed dwelling will be served by a generous amount of private open space for the rear of the proposed dwelling. Although the proposed private open space area will be sloped, I consider there to be sufficient scope within the space provided to provide a sufficient amount of usable open space to serve residents of the proposed dwelling.

Adjacent Houses

- 6.4.3. There are 2 houses proximate to the proposed dwelling, the applicant's parents house to the south and a recently extended dwelling (extended pursuant to Reg. Ref. 20/403) to the east. The proposed dwelling is separated a minimum of c. 80 metres from and due to the level difference that exists across the subject site, sits lower than these 2 dwellings.
- 6.4.4. I note the comments of the Planning Authority in relation to the potential impact of the proposed development on the residential amenity nearby dwellings which conclude that *'it is not considered that the proposed development will have any adverse impact on residential amenity of nearby dwellings as it does not over look or overshadow any other dwelling.'*
- 6.4.5. Having regard to the proximity of the proposed dwelling to adjoining dwellings and the single storey nature of the proposed dwelling, I would concur with the conclusions reached by the Planning Authority. I, therefore, have no objections to the proposed development in terms of potential impacts on residential amenity of nearby dwellings.

6.5. Other Matters

6.5.1. Wastewater treatment - The proposal entails installation of a proprietary wastewater treatment system. A Site Characterisation Report accompanied the planning application, which encompassed the carrying out of trial hole and percolation tests. The trial hole test notes that the water table level and/or bedrock was not encountered in the trial hole (trial hole depth of 2.20m depth). The percolation test result for T tests by the standard method for deep subsoils and/or water table, indicate 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 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The test results indicate 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 Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. The drawings submitted meets the required separation distances set down under the EPA Code of Practice (based on site size and separation from site boundaries). Clare County Council Environment Section considered the subject proposal to comply with the EPA Code of Practice: Wastewater Treatment and Disposal Systems Serving Single Houses. Given the elevated/sloping nature of the subject site, they recommended conditions is the event of a grant of permission. It is recommended that should the Board be minded to grant permission that the conditions specified in the Environment Section's Report be attached.

6.5.2. Development Contribution – I refer to the Clare County Council Development Contribution Scheme 2017-2023. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

6.6. Appropriate Assessment

6.6.1. Having regard to the nature and scale of the proposed development (a single house), the nature of the receiving environment, and the distance from the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant

effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

7.0 Recommendation

7.1. Having regard to the foregoing, it is recommended that permission be refused for the proposed development for the reasons and considerations set out below.

8.0 Reasons and Considerations

8.1.1. Having regard to the anticipated access/additional traffic to the N67 generated by the proposed dwelling, the 80kmph speed limit applying the applicable stretch of the N67 National Road and the limited sightlines available at the intersection with the applicable agricultural road, it is considered that the proposed development will have a material adverse impact on traffic/road safety on the N67 National Road and will be contrary to Objective CDP 8.4 of the Clare County Development Plan 2017-2023 and the Spatial Planning and National Roads – Guidelines for Planning Authorities (2012). The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

8.1.2. Having regard to the topography and elevated/exposed nature of the subject site, and its location within a ‘Settled Landscape’ proximate to the N67 Scenic Route, it is considered that the proposed development would constitute an obtrusive feature on the landscape at this location, have a negative visual impact on the sensitive, exposed and scenic rural landscape within which it sits and would adversely interfere with the views and prospects available from the N67 Scenic Route, contrary to Objective CDP 13.2 and Objective CDP 13.7 of the Clare County Development Plan 2017-2023. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

M Commane
Planning Inspector

1st February 2022