



An  
Bord  
Pleanála

## Inspector's Report

### ABP-312376-22

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<b>Development</b>	Construction of a new single/part two storey dwelling house
<b>Location</b>	Teeronea, Kilkishen, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	21754
<b>Applicant(s)</b>	Amy Heffernan & Oisin O'Connor
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Amy Heffernan & Oisin O'Connor
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	24 <sup>th</sup> March 2022
<b>Inspector</b>	Liam Bowe

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## 1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area of east County Clare, at the northern edge of Kilkishen village, approximately 7.4km north of Sixmilebridge and 15km to the east of Ennis. The site is accessed from the R462 regional road within the 60kph zone associated with Kilkishen village. There are houses immediately to the south of the appeal site and there are a significant number of one-off houses along this road to the north of the appeal site.
- 1.2. The appeal site is 0.1315 ha. and occupies an area of road frontage which extends to approximately 28m. The appeal site is relatively flat. There are mature hedgerows along the roadside and eastern boundaries, the southern site boundary is a low stone wall. There are utility poles on the western / roadside boundary. The site is grassland with a significant covering of reeds and it did not appear to be in agricultural use on the day of my site inspection.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a house, domestic garage, connection to the public water and public sewer and associated site development works at Teeronea, Kilkilshen, County Clare.
- 2.2. The proposed dwelling is single / part two-storey in design with a maximum ridge height of 8.24m, with render finish, some brick cladding and slate / tile roof finish. The proposed dwelling and domestic garage will have areas of 256m<sup>2</sup> and 35m<sup>2</sup>, respectively. The existing eastern (hedgerow) and southern (stone wall) site boundaries are to be retained. A low wall is proposed for the western / roadside boundary and there are no proposals presented for the treatment of the northern site boundary.

## 3.0 Planning Authority Decision

### 3.1. Decision

By order dated 9<sup>th</sup> December 2021 Clare County Council issued a notification of decision to Refuse Permission due to it giving rise to undesirable ribbon

development along the public road and, as the proposal would create an infill site, it was considered contrary to Objective CDP13.3 of the Development Plan.

### 3.2. **Planning Authority Reports**

#### 3.2.1. **Planning Report**

The Planning Officer stated that the location of the site is located in an area designated as an Area of Special Control and an area under strong urban pressure as per the Clare County Development Plan, that Objective CPD3.11 applies and that it was considered that the applicants had not demonstrated compliance with this objective. Further to this, it was considered that the proposed development would result in both the creation of an infill site and ribbon development, which is reflected in the decision of the Planning Authority.

Appropriate Assessment Screening was carried out and concluded that there is no likely potential for significant effects to any Natura 2000 site.

#### 3.2.2. **Other Technical Reports**

**Roads** – The Roads Engineer report dated 9<sup>th</sup> August 2021 stated that the sightline visibility did not meet the required 90 metres for a 60kph zone in either direction from the proposed entrance.

### 3.3. **Prescribed Bodies**

**Irish Water** – No objection. Conditions recommended.

### 3.4. **Third Party Observations**

None.

## 4.0 **Planning History**

There is no planning history on the appeal site referenced in the report of the Planning Officer.

## 5.0 Policy Context

### 5.1. National Planning Framework

5.1.1. The NPF in relation to rural housing includes objective 19 which states –

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence i.e., within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- In rural areas under urban influence, facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area and siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements; and
- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

### 5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005)

5.2.1. The Sustainable Rural Housing Guidelines require planning authorities to differentiate between rural housing demand arising from rural housing need and housing demand arising from proximity to cities and towns. Additionally, development plans should distinguish rural areas under strong urban influence, stronger rural areas, structurally weak rural areas and areas with clustered settlement patterns. The guidelines state that development management policy should be tailored to manage housing demand appropriately within these areas.

### 5.3. Clare County Development Plan 2017-2023 (as varied)

5.3.1. Under the Killaloe Municipal District Plan Settlement Plan 2017-2023, the site is located outside of the settlement boundary for Kilkishen village.<sup>1</sup>

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<sup>1</sup> P.53, Killaloe Municipal District Plan, Section 3 – Large Villages, Kilkishen

5.3.1. The site is located in the open countryside, in a rural area where there is no specific zoning afforded to the site. The site is located within an area identified as being under Strong Urban Pressure, referred to as an **Area of Special Control** in the Plan.

5.3.2. Section 3.2.5 of the Plan deals with Single Housing in the Countryside, and within Areas of Special Control. As such, Development Plan **Objective CDP3.11** – New Single Houses in the Countryside within the ‘Areas of Special Control’ is relevant and states as follows:

It is an objective of the Development Plan:

- a) In the parts of the countryside within the ‘Areas of Special Control’ i.e.:
- Areas under Strong Urban Pressure (See chapter 17);
  - Heritage Landscapes (See Chapter 13);
  - Sites accessed from Scenic Routes (See Chapter 13 and Appendix 5).

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

Category A – Local Rural Person (which includes 3 criteria)

Category B – Persons working full time or part-time in rural areas.

Category C – Exceptional Health and / or family circumstances.

5.3.3. Development Plan **Objective CDP13.13**: New Single Houses on Infill Sites in the Countryside

It is an objective of the Development Plan:

In the case where there is a grouping of rural houses, the development of a small gap site, sufficient to accommodate only one house, within an otherwise substantial and continuously built-up frontage, will be permitted provided it respects the existing development pattern along the frontage in terms of size, scale, siting, plot size and meets normal site suitability requirements. Dwellings constructed on infill sites of this

nature must be for the permanent occupation of the applicant. The siting of new dwellings in the countryside so as to deliberately create a gap site of this nature will not be permitted.

#### 5.3.4. Development Plan **Objective CDP13.2: Settled Landscapes**

It is an objective of the Development Plan:

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, and
- 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,
- The site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads and
- The 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.

#### 5.3.5. Other relevant objectives and sections of the plan include:

Appendix 1 – Development Management Guidelines where the following is relevant:

##### A1.3.1 – Rural Residential

- Development which deals with matters relating to siting and design, road frontage, plot size and wastewater treatment systems.



## 5.4. Natural Heritage Designations

- 5.4.1. The site is not located within any European site. The closest Natura 2000 sites are Kilkishen House SAC (Site code: 002319) and Danes Hole, Poulnalecka SAC (Site code: 000030), which are located approximately 1.4km to the south west and 2.8km to the south east, respectively. Lough Cullaunyheeda pNHA (Site code: 001017) is located approximately 700m to the west of the appeal site.

## 5.5. EIA Screening

Having regard to the nature and scale of the proposed development and separation from sensitive environmental receptors, I am satisfied that no likely significant impacts on the environment arise from the proposed development and that the carrying out of an EIA is not required in this case.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

- 6.1.1. The grounds of appeal are submitted by Rob Shanahan, Architect, 17 Clontarf Place, Limerick on behalf of Amy Heffernan and Oisin O'Connor and the main points made can be summarised as follows:

- States that the First Party is unaware of what the landowner's future intentions are for the remainder of the landholding.
- Contends that policy Objective CDP13.3 is largely irrelevant as the appeal site is adjacent to the settlement boundary of Kilkishen village and that the site was previously zoned where positive discussions took place with Clare County Council with respect to the provision of a number of housing units on the land.
- Requests that the Board consider imposing a Section 47 agreement condition on a grant of permission requiring the sterilising of the remainder of the landholding, as the landowner has acceded to this.

- States that the applicants chose to apply for permission on this sustainable serviced site instead of applying for permission on family-owned lands c.3km for the appeal site.
- Contends that the design of the dwelling assists in knitting it into the fabric of the village.

## 6.2. Planning Authority Response

The planning authority advises that the proposed development would contribute to linear development on this regional road and that the proposal would create an infill site and set a precedent. The planning authority confirms that previous discussions regarding development of the appeal site took place when the site was zoned for residential use and, presently, the site is outside of the settlement boundary for Kilkishen village as identified in the Clare County Development Plan 2017-2023 (as varied).

## 7.0 Assessment

I consider that the main issues in the assessment of this appeal are as follows:

- Rural Housing Policy
- Ribbon development / Infill
- Traffic safety
- Other Issues
- Appropriate Assessment

### 7.1. Rural Housing Policy

- 7.1.1. The appeal site is located outside of the settlement boundary of Kilkishen as outlined under Section 3: Large Villages of the Killaloe Municipal District Settlement Plan.<sup>2</sup> The site is located in an area identified in the Clare County Development Plan 2017-2023 as an 'Area of Special Control' and an 'Area Under Strong Urban Influence' as

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<sup>2</sup> P.53, Killaloe Municipal District Settlement Plan, Section 3: Large Villages, Kilkishen

identified in the Sustainable Rural Housing Guidelines. In these areas population levels are generally stable within a well-developed town and village structure and in the wider rural areas around them. This stability is supported by a traditionally strong agricultural economic base and the level of individual housing development activity in these areas tends to be relatively low and confined to certain areas.<sup>3</sup>

- 7.1.2. The Sustainable Rural Housing Guidelines for Planning Authorities (2005) state that development driven by urban areas should take place within the built-up areas, and that a distinction should be drawn between development that is needed to sustain rural communities and that which tends to take place in the environs of towns, which should more appropriately take place within urban areas.
- 7.1.3. The policies set out in the Sustainable Rural Housing Guidelines have been reinforced in the more recently published National Planning Framework (2018). In areas under strong urban influence, it is the policy to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic and social need to live in a rural area, having regard to the viability of small towns and rural settings. Thus, it continues to be necessary to demonstrate a functional economic or social requirement for housing need in these areas.
- 7.1.4. In this regard, it is stated that Amy Heffernan resided in Glenwood, Sixmilebridge, Co. Clare from 1999-2020 and has submitted letter confirming attendance at Kilkishen National School from 1999-2007. She is presently working and residing in Australia. Oisín O'Connor is presently working as an electrician and residing in Australia.
- 7.1.5. On the basis of the information presented, I do not consider that the applicants have not demonstrated any economic or social need to live in this rural area that meets the requirements of the rural housing policy set out in the development plan as the application and, subsequently, this appeal appears to have been made on the basis of the site being immediately adjacent to the village of Kilkishen.
- 7.1.6. Therefore, I am not satisfied that the information provided forms a clear basis for compliance with rural housing policy set out in the development plan or forms a basis for a need to live at this rural location. On the basis of the above, I do not consider

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<sup>3</sup> P.16, Sustainable Rural Housing – Guidelines for Planning Authorities (DoEHLG 2005)

that the applicants meet the requirements of the Clare County Development Plan relating to rural housing in an area designated as 'Area of Special Control' such as the appeal site. Given the location of the appeal site in an area also designated as an 'Area Under Strong Urban Influence' and the circumstances of the applicants, I also consider that the proposed development would be contrary to the National Planning Framework and the Sustainable Rural Housing guidelines. The applicants have not, therefore, demonstrated that they can meet the requirements of the settlement policy as set out in Objective CDP3.11 of the Development Plan.

## **7.2. Ribbon development / Infill**

- 7.2.1. Another key issue to be addressed within this appeal relates to the question of whether the appeal site would result in contributing to the ribbon development radiating from the village and result in the creation of an infill site and, therefore, conflict with policy Objective CDP3.13 of the Development Plan where it is stated that the siting of new dwellings in the countryside so as to deliberately create a gap site of this nature will not be permitted.
- 7.2.2. In my opinion, the First Party, effectively, accedes this by requesting that the Board consider imposing a Section 47 agreement condition on a grant of permission requiring the sterilising of the remainder of the landholding. It is also their contention that policy Objective CDP13.3 is largely irrelevant as the appeal site is adjacent to the settlement boundary of Kilkishen village and that the site was previously zoned.
- 7.2.3. The appeal site is located between two existing houses and the site itself forms part of the southern end of a small field under grassland. The roadside / western boundary of the field is approximately 108m and the roadside / western boundary of the appeal site comprises approximately 28m of this. If the appeal site was annexed from this field and a house permitted thereon, I consider that it would result in the creation of an infill site at this location. There are a further nine houses located to the north of the appeal site on the eastern side, within the 60kph speed zone, of this regional road.
- 7.2.4. On this basis, I am satisfied that the proposed development would result in the creation of an infill site and exacerbate existing ribbon development in the rural area on this approach road to Kilkishen village. This would directly conflict with policy

Objective CDP3.13 of the Development Plan and, therefore, I recommend that the proposed development be refused on this basis also.

### 7.3. **Traffic Safety**

- 7.3.1. I draw the Board's attention to the conflicting reports / information on the file within the planning officer's report and the Killaloe Municipal District's roads technician's report regarding the speed limit zone and the required sightlines for the proposed development.
- 7.3.2. Following my inspection of the site, I confirm that the appeal site is located within the 60kph speed control zone for the approach to the village of Kilkishen. The entrance to the house is proposed to be located approximately 50 metres to the north of the 50kph speed control zone for the village. For clarity, the 60kph zone for the approach to the village commences from this point 50 metres south of the site to a point approximately 650 metres north of the site. In this instance, I consider the site to be located within the 'rural fringe' transition zone as defined within the Design Manual for Urban Roads and Streets (2019).
- 7.3.3. On the day of my site inspection, I noted that the appeal site abuts a straight section of the regional road and sightlines are readily achievable to the north subject to some amendments to / removal of the roadside boundary. Similarly, the Frist Party has demonstrated 70m sightlines to the south. I consider these sightlines to be acceptable within the transition zone from the village to the rural area. On the basis of the above and having regard to the limited number of additional vehicular turning movements that the proposed development would generate, I consider that proposed development would be acceptable in terms of traffic safety.

### 7.4. **Other Issues**

#### 7.4.1. Design / Visual Impact

As stated earlier in this report, the proposed development comprises the construction of a single / part two-storey in design with a maximum ridge height of 8.24m, with render finish, some brick cladding and slate / tile roof finish. The existing eastern (hedgerow) and southern (stone wall) site boundaries are to be retained and a low wall is proposed for the western / roadside boundary.

On the day of my site inspection, I observed a mix of house types and designs in the wider rural area around the appeal site. I consider that the proposed house design, which is traditional in form and design, would not form an incongruous feature on this rural landscape and, with the retention of the southern and eastern site boundaries, should sit comfortably on the appeal site. I, therefore, am satisfied that the proposed house would not have any significant adverse visual impact on this rural landscape and would be in accordance with Objective CDP13.2 of the current Development Plan.

#### 7.4.2. Development Contributions

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

#### 7.5. **Appropriate Assessment**

- 7.5.1. Having regard to the nature and scale of the development proposed and the absence of any direct or indirect pathway between the appeal site and any European site and the separation distances to the nearest European sites (Kilkishen House SAC (Site code: 002319) and Danes Hole, Poulnalecka SAC (Site code: 000030), which are located approximately 1.4km to the south west and 2.8km to the south east, respectively), no Appropriate Assessment issues arise, and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

#### 8.0 **Recommendation**

I recommend that permission be refused for the reasons stated below.

## 9.0 Reasons and Considerations

### 1. Having regard to:

- the location of the site within a rural area identified as being an area under strong urban influence in accordance with the Sustainable Rural Housing Guidelines for Planning Authorities published by the Department of the Environment, Heritage and Local Government 2005 and an 'Area of Special Control' under the Clare County Development Plan 2017-2023,
- National Policy Objective 19 of the National Planning Framework (February 2018) which seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area, having regard to the viability of smaller towns and rural settlements,
- The provisions of the Clare County Development Plan 2017-2023 and specifically Objective CDP3.11, which facilitates the provision of rural housing for local rural people building in their local rural area, and
- The absence of documentation on the file outlining the applicant's links to this rural area,

the Board could not be satisfied on the basis of the information on the file that the applicants come within the scope of either economic or social housing need criteria as set out in the overarching National Guidelines or the definition of a local rural person in accordance with the relevant criteria of the development plan.

The proposed development, in the absence of any identified locally based need for a house at this location, would result in a haphazard and unsustainable form of development, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and undermine the settlement strategy set out in the development plan. The

proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. It is the policy of the planning authority as set out in the current Development Plan Objective CDP3.13 of the Development Plan where it is stated that the siting of new dwellings in the countryside so as to deliberately create a gap site will not be permitted. The proposed development would be in conflict with this policy because, when taken in conjunction with existing development in the vicinity of the site, it would create an infill site and consolidate and contribute to the build-up of ribbon development in an open rural area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

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Liam Bowe  
Planning Inspector

4<sup>th</sup> May 2022