



An
Bord
Pleanála

Inspector's Report ABP-312410-22

Development	House with wastewater treatment system and associated works.
Location	Brickhill West, Cratloe, Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	21485
Applicant(s)	Seán & Deirdre Fitzgerald
Type of Application	Outline Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Seán & Deirdre Fitzgerald
Date of Site Inspection	24 th March 2022
Inspector	Liam Bowe

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	5
3.1. Request for Further Information	5
3.2. Decision	5
3.3. Planning Authority Reports	5
3.4. Prescribed Bodies	6
3.5. Third Party Observations	Error! Bookmark not defined.
4.0 Planning History.....	6
5.0 Policy Context.....	6
5.1. National Planning Framework	6
5.2. Sustainable Rural Housing Guidelines for Planning Authorities (2005).....	7
5.3. Clare County Development Plan 2017-2023	7
5.4. Natural Heritage Designations	9
5.5. EIA Screening	9
6.0 The Appeal	10
6.1. Grounds of Appeal	10
6.2. Planning Authority Response	10
7.0 Assessment.....	11
7.1. Rural Housing Policy	11
7.2. Visual Impact.....	12
7.4. Other Issues.....	14
7.5. Appropriate Assessment	14

8.0 Recommendation..... 15

9.0 Reasons and Considerations..... 15

10.0 Conditions 15

1.0 Site Location and Description

- 1.1. The appeal site is located in a rural area of south east County Clare, approximately 500m to the east of the village of Cratloe and 7.5km to the north west of Limerick City. The general area is accessed via junction 5 off the N18 national road which connects Limerick City and Ennis. The site is then accessed via a regional road to the west of Cratloe village and is located approximately 300m down a farm access road. This farm access road is narrow, with room for just one car, but includes a number of pull-in points to facilitate passing cars. There are houses immediately to the south and south east of the appeal site, all of which are within the settlement plan area for the village of Cratloe.
- 1.2. The appeal site is 0.27 ha. and comprises approximately 230m of an access road to the main body of the site, and the site is located at the southern end of a large field. The proposed access road rises significantly to the south towards the main body of the site and then plateaus where the proposed house is to be sited. The eastern, southern and part of the western site boundaries are low stone walls with blackthorn / whitethorn trees. Part of the western boundary along the proposed access road is a strong hedgerow. The site is under grassland and was in agricultural use on the day of my site inspection. There are registered monuments approximately 80 metres to the south west and 70 metres to the north east of the site, respectively (CL062-005 *Ringfort* and CL062-006 *Megalithic Structure* refer).

2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a house, domestic garage, installation of a domestic wastewater treatment system (DWWTS), connection to the public water network and associated site development works at Brickhill West, Cratloe, County Clare.
- 2.2. The proposed dwelling is indicated as single storey. The existing western, eastern and southern site boundaries are to be retained. A new 1200mm stone wall and planting (not specified) is proposed on the northern and part of the western site boundaries.

3.0 Planning Authority Decision

3.1. Request for Further Information

Prior to its notification of decision, the Planning Authority issued a further information request on 9th July 2021 requiring details in relation to the applicants' housing need, the rationale for choosing the site, and clarification as to whether a connection to the public water supply is feasible.

In response, the first party submitted details of the transfer of the farmhouse and farm to the applicants' son and hence their need for a retirement home, the reasoning for the site selection, and confirmation of the feasibility of water connection from Irish Water.

3.2. Decision

By order dated 3rd December 2021 Clare County Council issued a notification of decision to Refuse Permission due to the siting of the proposed house and the extensive road access forming a visually prominent feature on the landscape.

3.3. Planning Authority Reports

3.3.1. Planning Reports

The initial report of the Planning Officer stated that 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, which is reflected in the decision of the Planning Authority. Similarly, it was highlighted that the site was located within an area designated under Objective CDP13.3 as the Western Working Corridor Landscape and a reasoning for the site selection was needed, which is also reflected in the decision of the Planning Authority.

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

A second report, subsequent to the submission of a response to further information, recommends a refusal of permission consistent with the notification of decision which issued.

3.3.2. **Other Technical Reports**

Environment – No objection. Conditions recommended.

3.4. **Prescribed Bodies**

Irish Water – The initial report dated 18th May 2021 recommended that further information be sought regarding the location of the connection to the public main. The second report dated 7th October 2021 confirms that a connection to the public water supply is feasible, subject to conditions.

4.0 **Planning History**

4.1. **Appeal site:**

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

4.2. **Adjacent site to the east:**

P.A. Ref. No. 20/765: Outline permission granted to Conor McGrath & Emma Robins for a house and domestic garage.

P.A. Ref. No. 21/759: Permission consequent on the grant of outline permission granted to Conor McGrath & Emma Robins for a house and domestic garage.

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

- 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. The site location is within an a “**Working Landscape**” (Map 13A refers). Working Landscapes are those areas within Settled Landscapes that contain pockets of concentrated development or a unique natural resource. The Plan identifies two such landscapes in the County

- i. The Western Corridor - Ennis to Limerick Working Landscape
- ii. The Shannon Estuary Working Landscape

5.3.4. The appeal site is within the **Western Corridor Working Landscape** (all lands within 10km on either side of the N18/M18 – except as excluded by Heritage Landscapes) and contains the highest concentrations of population and employment and the strongest transport links and connectivity. According to **Objective CDP13.3** it is the policy of the planning authority to:

- a. To permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life - subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- b. That selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;

- c. That particular regard should be given to avoiding intrusions on scenic routes and on ridges or shorelines. Developments in these areas will be required to demonstrate that:
 - i. The site has been selected to avoid visually prominent locations;
 - ii. Site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads;
 - iii. Design for buildings and structures reduce visual impact through careful choice of form, finishes and colours and that any site works seek to reduce visual impact of the development.

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**

The site is not located within any European site. The closest Natura 2000 sites are the Lower River Shannon SAC (Site code: 002165) located approximately 1km to the west.

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 Leahy Planning Ltd., Mill Road House, Mill Road, Ennis, Co. Clare on behalf of Seán & Deirdre Fitzgerald and the main points made can be summarised as follows:

- States that the First Parties need a small retirement home for themselves on their family land as their son is taking over the farmhouse and the running of the farm (documentation confirming this is submitted with the appeal).
- States that the dwelling is to be sited 3 metres below the level of the front / northern boundary of the site, the site benefits from a mature hedgerow along its eastern boundary and a single storey house will not be visible from nearby public roads.
- Highlight that Clare County Council have recently granted permission for a two-storey at a higher finished floor level on the site immediately to the east of the appeal site.
- States that the choice of site was also preferred because it has minimal interference with the operation of the farm.
- Contends that the proposed access road to the appeal site is a common feature within farmlands and could not be described as an exceptional or disruptive feature.
- Alleges a lack of consistency in the implementation of planning policy which is evidenced between the appeal site and the adjacent site to the east.

6.2. Planning Authority Response

The Planning Authority confirmed that the concerns raised regarding the visual impact of the proposals are set out in the planning reports and that there appears to be alternative sites available on the landholding.

7.0 Assessment

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

- Rural Housing Policy
- Visual Impact
- Other Issues
- Appropriate Assessment

7.1. Rural Housing Policy

- 7.1.1. The site is located outside of the settlement of Cratloe 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 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.¹
- 7.1.2. The application / appeal is being made on the basis that Seán and Deirdre Fitzgerald need a small retirement home for themselves on their family land as their son is taking over the farmhouse and the running of the farm. In this regard, the First Party has submitted documentation from their solicitor confirming that the transfer of their farm (stated as 74 hectares) and associated farmhouse to their son, Diarmuid, was initiated in October 2020. Their solicitor confirmed that he is waiting on the land registration process to be completed and has requested that the matter be expedited.
- 7.1.3. On the basis of the documentation submitted with the application and this appeal and per the Sustainable Rural Housing Guidelines, I am satisfied that Seán and Deirdre Fitzgerald can be considered as persons who are an intrinsic part of this rural community and, therefore, meet the requirements of Category C under policy

¹ P.16, Sustainable Rural Housing – Guidelines for Planning Authorities (DoEHLG 2005)

objective CDP3.11 of the Development Plan. The Guidelines are clear in this regard and state:

“Such persons will normally have spent substantial periods of their lives, living in rural areas as members of the established rural community. Examples would include farmers, their sons and daughters and or any persons taking over the ownership and running of farms, as well as people who have lived most of their lives in rural areas and are building their first homes.”

- 7.1.4. On the basis of the above, I consider 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 in accordance with the National Planning Framework and the Sustainable Rural Housing guidelines. The applicants have, 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. **Visual Impact**

- 7.3. As stated earlier in this report, the proposed development comprises the construction of a single-storey house. The existing eastern and southern field boundaries are to be retained as well as the western field boundary that runs along part of the proposed access road. A new 1200mm stone wall and planting (not specified) is proposed on the northern and part of the western site boundaries.
- 7.3.1. The Planning Authority’s principal objection in this regard is that the proposed house and associated access road would form a visually prominent feature on the landscape when viewed from a wide area and highlight that proposed development in these areas are required to demonstrate that:
- The site has been selected to avoid visually prominent locations; and
 - The site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.

I note the First Party's contention that the dwelling is to be sited 3 metres below the level of the front / northern boundary of the site, that the site benefits from a mature hedgerow along its eastern boundary and a single storey house will not be visible from nearby public roads.

- 7.3.2. On the day of my site inspection, I observed views to and from both the proposed access road and the main body of the site. Parts of the location where the access road is proposed is visible intermittently when viewed from the R462 regional road to the north east of the appeal site. The parts of the proposed access road that would be visible are from between approximately 28.00m OD to 37.50m OD on the submitted site layout plan. I can confirm that there are no views to / from a public road at the location on the main body of the site where the proposed house is to be sited. This is primarily due to the local topography where the front / northern part of the site is 2m-2.5m lower than the middle of the main body of the appeal site, but also due to the level of existing natural screening present on the eastern and southern site / field boundaries.
- 7.3.3. In relation to the visibility and prominent location of part of the proposed access road, I am satisfied that the existing natural backdrop of a stone wall and natural screening on the western site / field boundary between approximately 28.00m OD to 37.50m OD on the submitted site layout plan will assist in absorbing this feature into the landscape. Similarly, I consider that the proposal to provide a new 1200mm stone wall and planting on the northern and part of the western site boundaries will reduce the visibility of the proposed house to imperceptible levels from any public views.
- 7.3.4. I note the report of the Planning Officer of Clare County Council and the contents of the planning authority's response to this appeal alluding to the possibility of more suitable and less visually prominent sites for a house on the landholding than the appeal site. The First Parties state that the site was chosen because of the topography and the existing level of natural screening present on the site as well having minimal interference with the operation of the farm. Although minimising interference with the operation of the farm is not a sufficient reason for site selection in itself, I consider that a proposal for a house by the First Parties on an alternative site on the landholding would not be such a lesser visual impact as to warrant a refusal of the proposed house under this appeal.

7.3.5. In conclusion, having regard to the limited height and scale of the proposed house together with good siting on a well-chosen site within this designated 'Working Landscape', I consider that the proposed house and associated access road would not have a negative visual impact on the rural landscape within which it sits. Given this, I consider that the proposed development would be in accordance with Objective CDP13.2 of the current Development Plan and, therefore, I do not consider that the visual impact is such to justify a refusal.

7.4. Other Issues

7.4.1. Traffic safety

On the day of my site inspection, I noted that the appeal site located on a farm road is accessed from the R462 regional road. This is a well-established junction / access with good sightlines present. Having regard to the limited number of additional vehicular movements arising from a single dwelling and the nature of the proposed site access, I consider that the proposed development would not result in a traffic hazard.

7.4.2. Ground water

The First Party proposes to treat the wastewater by means of a secondary treatment system and discharge to a polishing filter. I note that the Environmental Section of Clare County Council had no concerns about the proposed method of treating wastewater on the appeal site. On the day of my site inspection, I also noted that the ground conditions were good and, in my opinion, consistent with those described within the Site Characterisation Form which indicated a groundwater protection response of R2¹ and the water table to be at a depth of 2.1m. I conclude, based on the material submitted with the application, that the appeal site is suitable for the safe disposal of domestic effluent and with the installation of a proprietary wastewater treatment system, that the proposed development would not create a serious risk of ground water pollution.

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 site (the Lower River Shannon SAC (Site code: 002165) located approximately 1km to the west), 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 outline planning permission should be granted based on the following reasons and considerations and subject to the attached conditions.

9.0 Reasons and Considerations

Having regard to the provisions of Clare County Development Plan 2017-2023 (as varied), the location of the site, and the nature and scale of the proposed development, it is considered that the proposed development would not seriously injure the visual amenities of the area. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received on the 8 th day of November 2021, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars. Reason: In the interest of clarity.
2.	Details of the design of the house shall be submitted by way of a separate application for permission consequent and shall incorporate the following requirements:

	<p>(a) the house shall be single storey of low profile and shall not be of dormer construction,</p> <p>(b) the finished floor level shall not be higher than 36.50 metres O.D.,</p> <p>(c) the total floor area of the house shall not exceed 150 square metres,</p> <p>(d) the roof pitch shall be finished with slate of blue-black, black, dark brown or dark grey colour,</p> <p>Reason: In the interest of visual amenity.</p>
3.	<p>a) The proposed dwelling, when completed, shall be first occupied as a place of permanent residence by the applicant, members of the applicant's immediate family or their heirs, and shall remain so occupied for a period of at least seven years thereafter, unless consent is granted by the planning authority for its occupation by other persons who belong to the same category of housing need, as the applicant. Prior to commencement of development, the applicant shall enter into a written agreement with the planning authority under section 47 of the Planning and Development Act, 2000 to this effect.</p> <p>b) Within two months of the occupation of the proposed dwelling, the applicant shall submit to the planning authority a written statement of confirmation of the first occupation of the dwelling in accordance with paragraph (a) and the date of such occupation.</p> <p>This condition shall not affect the sale of the dwelling by a mortgagee in possession or the occupation of the dwelling by any person deriving title from such a sale.</p> <p>Reason: To ensure that the proposed house is used to meet the applicant's stated housing needs and that development in this rural area is appropriately restricted to meeting essential local need in the interest of the proper planning and sustainable development of the area.</p>
4.	<p>All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.</p>

	Reason: In the interest of visual amenity.
5.	<p>Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works.</p> <p>Reason: To ensure adequate servicing of the development, and to prevent pollution.</p>
6.	<p>(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority on the 18th day of May, 2021, and in accordance with the requirements of the document entitled "Code of Practice - Wastewater Treatment and Disposal Systems Serving Single Houses (p.e. ≤ 10)" – Environmental Protection Agency, 2009. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.</p> <p>(b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.</p> <p>(c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the dwellinghouse and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.</p> <p>(d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.</p> <p>(e) Within three months of the first occupation of the dwelling, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the</p>

	<p>polishing filter is constructed in accordance with the standards set out in the EPA document.</p> <p>Reason: In the interest of public health.</p>
7.	<p>The landscaping of the development shall incorporate a continuous hedge of indigenous species (e.g. holly, hawthorn or beech), which shall be planted for the full length / eastern side of the proposed accessway.</p> <p>Reason: In order to screen the development and assimilate it into the surrounding rural landscape, in the interest of visual amenity.</p>

Liam Bowe
Planning Inspector

29th April 2022