



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314488-22

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<b>Development</b>	Construct a house including attached garage, with treatment system, new entrance and all associated site works.
<b>Location</b>	Cragard and Curraderra, Barefield, Co. Clare.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22516
<b>Applicant(s)</b>	Julie Anne Meaney
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission
<b>Type of Appeal</b>	Third Party
<b>Appellant(s)</b>	Kieran Kelly
<b>Date of Site Inspection</b>	26 <sup>th</sup> January 2023
<b>Inspector</b>	Liam Bowe

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.291 ha. is located in a rural area approximately 7km to the northeast of Ennis and 2.4km to the northeast of Barefield village in County Clare. The site fronts on to the R458 regional road between Ennis and Gort. The M18 motorway is located immediately to the northwest of the field that the appeal site forms part of. There is a recently constructed two-storey house (first party's sister's) located immediately to the northeast of the appeal site.
- 1.2. The site is a low-lying greenfield site that comprises the south-eastern part of a small agricultural field. The south-eastern boundary is a low hedgerow; the north-eastern site boundary is a low concrete post and wire fenced shared with the adjacent house; and the north-western and south-western boundaries are open to the field. The field runs a further c.60m to the northwest to its boundary with the M18 motorway. The general area is characterised by some sporadic houses, agricultural land and associated buildings.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a house, attached domestic garage, effluent treatment system, new entrance from the public road and associated site development works at Cragard and Curraderra, Barefield, County Clare.
- 2.2. The proposed dwelling is two-storey in design with a ridge height of 8.06m, with render finish, some stone cladding and slates on the roof. The proposed house and domestic garage have stated floor areas of 232.5m<sup>2</sup> and 23.5m<sup>2</sup>, respectively. The existing south-eastern / roadside field boundary is to be retained. The remaining site boundaries are to be planted with whitethorn, beech and laurel hedging at 6 plants per metre on a staggered basis. The house is to be serviced by the public water supply and an on-site wastewater treatment system.

## 3.0 Planning Authority Decision

### 3.1. Decision

3.1.1. By order dated 4<sup>th</sup> August 2022 Clare County Council issued a notification of decision to Grant Permission for the proposed development subject to 12 no. standard conditions. The conditions include inter alia the following:

- Condition No.2: 7 years occupancy condition.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The report of the Planning Officer outlines the relevant planning policy for new single houses in the countryside (CDP3.11), notes the planning history, internal consultation, statutory consultations and the submission received. The report recommends a grant of permission consistent with the notification of decision which issued.

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

#### 3.2.2. Other Technical Reports

**Road Design** – No comments.

### 3.3. Prescribed Bodies

**TII** – No observations to make.

**IAA** – No observations to make.

### 3.4. Third Party Observations

A submission on the proposal was received from Kieran Kelly. The submission reflects the principal issues raised in this appeal and highlights the applicants lack of a social or economic need to reside at this location and non-compliance with Clare County Council's rural housing policy.

## 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:

**P.A Ref. No. P19302:** Permission granted for a house with attached garage and carport for Carolyn Meaney on the site immediately to the northeast of the appeal site.

## 5.0 Policy Context

### 5.1. National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)

#### 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 Development Guidelines 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 2023-2029

The Board should note that the Clare County Development Plan 2023-2029 came into effect on 20<sup>th</sup> April 2023.

5.3.1. The site is located in a rural area that is designated as experiencing “Strong Urban Influence” and it is therefore within the “**Areas of Special Control**” as per the Development Plan (Strong Urban Influence - Map D: Areas of Special Control refers).

5.3.1. Section 4.2.6 of the Plan deals with Single Housing in the Countryside, and within Areas of Special Control. As such, Development Plan **Objective CDP 4.14** – New Single Houses in the Countryside within the ‘Areas of Special Control’ is relevant and states as follows:

It is an objective of Clare County Council:

i. In the parts of the countryside within the ‘Areas of Special Control’ i.e.:

- Areas Under Strong Urban Influence
- Heritage Landscapes
- Sites accessed from or abutting Scenic Routes

To permit a new single house for the permanent occupation of an applicant who meets the necessary criteria as set out in the following categories.

ii. To ensure compliance with all relevant environmental legislation as outlined in Objective CDP3.1 and to have regard to the County Clare House Design Guide, with respect to siting and boundary treatments.

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 CDP11.13 and 11.14 as set out in Chapter 11.

### Category A – Economic Need

- i. Such persons shall be defined as persons who by the nature of their work have a demonstrable economic need to reside permanently in the rural area close to their place of work, or
- ii. An applicant who is able to satisfy the Planning Authority of their commitment to operate a full-time business (not including bed and breakfasts), from their proposed home in a rural area, as part of their planning application, in order for example, to discourage commuting to towns or cities.

### **Category B – Social Need**

- i. A person who is an intrinsic member of a local rural community who was born within the local rural area, or who is living or has lived permanently in the local rural area for a minimum of 10 years either as one continuous period or cumulatively over a number of periods prior to making the planning application and who has a demonstrable social need to live in the area, or
- ii. Special consideration shall be given in limited cases for persons who need a dwelling for permanent occupation in a rural area for exceptional health reasons, or
- iii. A person who is an intrinsic member of a local rural community, who was born within the local rural area or who is living or has lived permanently in the local rural area for a minimum of 10 years at any stage either as one continuous period or cumulatively over a number of periods prior to making the planning application, who previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate an economic or social need for a new home in the rural area.

5.3.2. Other relevant objectives and sections of the plan include:

#### **Western Corridor Working Landscape**

This part of the County contains the highest concentrations of population and employment and the strongest transport links and connectivity. Includes all lands within 10km on either side of the N18/M18 – except as excluded by Heritage Landscapes.

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

#### **A1.4.1 – Rural Residential Development**

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

#### **A1.6.2 – Sight Distances**

- Design speed of a major road 100kph requires sight distances of 215m.

### **5.4. Natural Heritage Designations**

The appeal site is not located within any designated site. The closest Natura 2000 sites are the Dromore Woods and Loughs SAC (Site Code: 000032) and the Slieve Aughty Mountains SPA (Site Code: 004168), which are located approximately 1.1km to the northwest and 2.5km to the east of the appeal site, respectively.

### **5.5. EIA Screening**

Having regard to the nature and scale of the proposed development and the 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 following is a summary of the main issues raised in the third party appeal received:

- Contends that the first party has not demonstrated compliance with Policy Objective CDP3.11.
- Lists numerous appeal cases where precedent is cited.
- Contends that applicants with connections to the rural area, with no connection to agriculture and no demonstrated need to live in the rural area should be directed to settlements, villages and towns where there is a reasonable level of services, with access to schools, shops and other facilities.

## 6.2. Applicant Response

6.2.1. The main issues raised in the first party response to the grounds of appeal can be summarised as follows:

- Contends that she has a social and economic need to reside at this rural location (birth certificate and evidence of attendance at primary school in Barefield and secondary school in Ennis is included).
- Highlights parts of the rural housing policy within the Clare County Development Plan 2017-2023 and contends that she complies with Categories A and C (a letter from parents' GP is included).
- States that she was employed in the family engineering business (Ashleigh Engineering) initially in 2010 and that this role will expand on her return from Edinburgh.
- Lists a number of appeal cases where precedent is cited.

## 6.3. Planning Authority Response

The Planning Authority responded on 21<sup>st</sup> September 2022 to the request for comments and stated that it had no further observations to make.

## 7.0 Assessment

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

- Rural Housing Policy
- Traffic Safety – New Issue



- Other Issues
- Appropriate Assessment

## 7.1. Rural Housing Policy

- 7.1.1. The third party appellant contends that applicants with connections to the rural area, with no connection to agriculture and no demonstrated need to live in the rural area should be directed to settlements, villages and towns and that, in this instance, the applicant has not demonstrated compliance with Clare County Council's rural housing policy.
- 7.1.2. As the planning application, and this appeal, was made when the previous development plan was effective, the first party contends that she complies with the policy for rural housing need under Objective CDP3.11 of the Clare County Development Plan 2017-2023. In her response to the appeal, the first party outlines her links to this rural area and contends that this demonstrates compliance with Category A (Local Rural Person). The first party also contends that she complies with Category C (Exceptional Health and / or Family Circumstances) of the policy.
- 7.1.3. Under the recently, adopted Clare County Development Plan 2023-2029 the relevant rural housing policy is contained within Objective CDP 4.14. I refer to Section 5.3 Development Plan policy above where Objective CDP 4.14 is set out. Similar to the previous development plan, the site is located in an area identified in the Clare County Development Plan 2023-2029 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.<sup>1</sup>
- 7.1.4. I consider the policy most relevant policy to this appeal in the Clare County Development Plan 2023-2029 where it is an objective to permit a new single house for the permanent occupation of an applicant who meets the criteria is:

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

## **Category B – Social Need**

A person who is an intrinsic member of a local rural community who was born within the local rural area, or who is living or has lived permanently in the local rural area for a minimum of 10 years either as one continuous period or cumulatively over a number of periods prior to making the planning application and who has a demonstrable social need to live in the area.

- 7.1.5. In this regard, information on the file indicates that the first party is returning from studying in Edinburgh having completed a PhD in Data Science. The first party has not obtained employment in the Ennis/Limerick area although she alludes to being in a position to assist with the running of her parents' engineering business having done so on a part-time basis for a number of years. Further to this, the first party outlined her social linkage to the area and has submitted evidence of this in the form of a birth certificate and graduation certificates from both Barefield National School and Coláiste Muire, Ennis. She has also presented details of the location of her family home and the locations of where her siblings reside.
- 7.1.6. 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.
- 7.1.7. 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.
- 7.1.8. Permission for a new rural house in such circumstances would service to contribute to a pattern of development that would be highly car dependant and would also undermine the policy of the planning authority to direct development into serviced areas and more specifically would conflict with the strategic aims for Ennis town and a sequential approach to developing serviced and sustainable neighbourhoods.

- 7.1.9. In this case, the applicant is not presently in a position to identify her place of work and whilst the family connections are not in doubt, I consider that the first party does not have a demonstrable rural housing need to the extent that is justifiable on the basis of its potential to undermine a more balanced housing pattern in line with the settlement hierarchy that is sustainable in terms of infrastructure and car dependency, having particular regard to the key objectives for the development of the town of Ennis.
- 7.1.10. Therefore, on the basis of the information available, 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 that the applicant meets 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.

## 7.2. **Traffic Safety – New Issue**

- 7.2.1. I draw the Board's attention to Development Plan Objective CDP11.11 for Motorways, National Roads and Strategic Inter-Urban Roads where it is an objective of Clare County Council "to safeguard the motorway, national roads and strategic regional inter-urban road connections between cities, settlements, ports and airports, and their associated road junctions, in line with national policy". I consider the R458 regional road to be a strategic regional inter-urban link between Ennis and Gort and the relevant national policy for this type of road is outlined in 'Spatial Planning and National Roads – Guidelines for Planning Authorities' (DoECLG, 2012). In relation to regional and local roads, it is stated in section 1.6 of this guidance that:
- "Other non-national roads, especially the regional road network, provide essential links between the various Gateways and Hubs identified in the National Spatial Strategy and their rural hinterlands. In many cases, investment has improved the alignment, surface and safety of major stretches of regional roads, which carry significant volumes of traffic, especially those outside the 50-60 kmh speed limits for

cities, towns and villages. For the future, the protection of such capacity and preservation of enhanced safety standards will be important in ensuring that such regional roads can continue to perform important local and regional transportation functions.”

- 7.2.2. The first party proposes a new access onto this regional road and includes a drawing (Site Layout Plan 1:750) demonstrating available sightlines of 160m in both directions. I note that the Planning Officer’s report stated that the required 160m sightlines for a road with an operating speed of 80kph were achievable. On the day of my site inspection, I noted and confirm to the Board that the appeal site is in fact located on a part of the R458 regional road where the speed zone is 100kph. It is stated in Development Management Standards of the Development Plan that sight distances of 215m are required for a major road with a design speed of 100kph.
- 7.2.3. Having reviewed the site layout plan and alignment of the road during my site inspection, I am not satisfied that the required sightlines can be achieved to the northeast of the proposed entrance without the removal of the entire south-eastern hedgerow of the field to the north of the appeal site for a distance of approximately 170m. I note that this field does not form part of the lands outlined in blue submitted with the planning application and I, therefore, conclude that achieving the required sight distance is outside of the first party’s control.
- 7.2.4. In conclusion, I have serious concerns about the sightline to the northeast where the curved horizontal alignment of the road is of particular concern. Having regard to this alignment of the road and the reliance on achieving sightlines over private property and the potential for obstruction, I do not consider the issue of sightlines has been adequately addressed. Given the strategic nature and operating speed of the road, I consider that the proposed development would be likely to give rise to a traffic hazard and would be contrary to national and local planning policy. However, this is a new issue and the Board may wish to seek the views of the parties.

### 7.3. **Other Issues**

#### Design and Layout

- 7.3.1. As stated earlier in this report, the proposed development comprises the construction of a two-storey in design with a ridge height of 8.06m and a floor area of 232.5m<sup>2</sup>, with render finish, some stone cladding and slates on the roof. It is also proposed to

attach a domestic garage to the north-eastern side of the house, which will have an additional floor area of 23.5m<sup>2</sup>.

- 7.3.2. I consider the proposed house design to be simple in form and design and, therefore, I am satisfied that the proposed house would not present any significant adverse visual impact on this area designated as Western Corridor Working Landscape.

#### Disposal of Wastewater

- 7.3.3. The First Party excavated the trial hole to a depth of 1.1m. Bedrock was encountered at this depth and no water table was visible. It is confirmed within the Site Characterisation Report that the appeal site is located over a locally important aquifer with extreme vulnerability, which requires a Groundwater Protection Response of R2<sup>1</sup>. The T Value is stated as 17.47 (subsurface). Based on these results, the Site Assessor recommended a proprietary wastewater treatment system with secondary and tertiary treatment (soil polishing filter).
- 7.3.4. On the day of my site inspection, I noted that the ground conditions were good and consistent with those described within the Site Characterisation Form. On this basis, I do not consider the proposed development would be likely to pose a significant risk to ground water.
- 7.3.5. 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.

#### **7.4. Appropriate Assessment**

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 (Dromore Woods and Loughs SAC (Site Code: 000032) and the Slieve Aughty Mountains SPA (Site Code: 004168), which are located approximately 1.1km to the northwest and 2.5km to the east of the appeal site, 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 –

- (i) National Policy Objective 19 of the National Planning Framework (February 2018), which, for rural areas under urban influence, seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstratable economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements,
- (ii) the pattern of development in the area which is considered to be under urban influence,
- (iii) the objectives of the Clare County Development Plan 2023-2029, which seeks to discourage urban generated housing in rural areas and to direct the provision for housing into towns and villages such as Ennis,

it is considered that the applicant has not sufficiently demonstrated an economic or social need to live in a rural area having regard to the viability of smaller towns and rural settlements and, therefore, the proposed development does not comply with National Policy Objective 19. The proposed development would contribute to the encroachment of random rural development in the area, would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure and would contravene the provisions of the National Planning Framework. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

2. Having regard to the Spatial Planning and National Roads – Guidelines for Planning Authorities, published by the Department of Environment, Community and Local Government in January 2012, to the provisions of the Clare County

Development Plan 2023-2029, to the location of the proposed access onto a regional road where a speed limit of 100 kilometres per hour applies, and the horizontal alignment of the road where sightlines are restricted, it is considered that the proposed development would be contrary to the guidelines and would endanger public safety by reason of traffic hazard because of the additional traffic turning movements the development would generate on a road at a point where sightlines are restricted. The proposed development would, therefore, be contrary to national and local policy and to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Liam Bowe  
Senior Planning Inspector

18<sup>th</sup> May 2023