



An  
Bord  
Pleanála

## Inspector's Report

### ABP-314581-22

---

<b>Development</b>	Construction of a dwelling and associated site works
<b>Location</b>	Kilmore, Co Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	22578
<b>Applicant(s)</b>	Adrian Mullally
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Adrian Mullally
<b>Date of Site Inspection</b>	23 <sup>rd</sup> February 2023
<b>Inspector</b>	Liam Bowe

## 1.0 Site Location and Description

- 1.1. The appeal site with a stated area of 0.9 ha. is located in a rural area approximately 9.3km to the north of Limerick City and immediately to the north of the settlement / cluster of Kilmore in east County Clare. The site fronts on to the R465 regional road between Limerick City and Broadford. There is a two-storey house located immediately to the north and a dormer house located immediately to the south of the appeal site.
- 1.2. The site is a low-lying part greenfield, part brownfield site that comprises agri-buildings and steel containers set back from the public road with a concrete access road constructed from the regional road that dissects the site, and part of an agricultural field to the east. The northern boundary is a hedgerow; the western / roadside boundary is a low post and rail fence; the southern site boundary is part post and rail fence and part post and wire fence; and the eastern boundary is open to the field that the site forms part of. The field runs a further c.100m to the east to its boundary. The general area is characterised by significant numbers of one-off housing, agricultural land and associated buildings.

## 2.0 Proposed Development

- 2.1. The proposed development comprises the construction of a house, entrance, wastewater treatment system, and associated site development works at Kilmore, County Clare.
- 2.2. The proposed house is two-storey over basement in design with a ridge height of 9.433m, with render finish and slates on the roof. The proposed house has a stated floor area of 182.3m<sup>2</sup>. There is no indication given for the treatment of the existing or proposed site boundaries. 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 23<sup>rd</sup> August 2022 Clare County Council issued a notification to refuse permission for the following reasons:

1. The proposal site is accessed from the R465, which is a Strategic Regional Road, in an area where the maximum speed limit applies. Under the provisions of Objective CDP8.5 of the Clare County Development Plan 2017-2023 (as varied), developments requiring direct access onto Strategic Regional Roads are restricted to *established landowners and their sons and daughters wishing to build a dwelling for their own occupation on family land*. Having regard to land ownership information provided in the application, the Planning Authority does not consider the applicant to comply with these requirements.

Having regard to the foregoing, the development as currently proposed would be contrary to Objective CDP8.5 of the Clare County Development Plan 2017-2023 (as varied), would lead to additional traffic movements off the R465 which would endanger public safety by reason of a traffic hazard, and would be contrary to the proper planning and development of the area.

2. The Planning Authority notes that the new entrance as indicated on the submitted plans and particulars has already been constructed with an internal road which provides access to sheds and storage containers on the site. These works do not have the benefit of planning permission nor can they be considered exempted development under the provisions of the Planning and Development Regulations 2000 (as amended). The proposal to develop a dwelling house without the concurrent regularisation of the works which have already been undertaken on the site would compound an unauthorised use of the site and would be contrary to the proper planning and development of the area.

### 3.2. Planning Authority Reports

#### 3.2.1. Planning Report

The Planning Officer in her report dated 22<sup>nd</sup> August 2022 stated that the site is located 20m north of the Kilmore cluster settlement boundary under the Clare County Development Plan 2017-2023 (as varied). The Planning Officer outlined the planning history, noted the contents of the internal and statutory consultations, highlighted unauthorised works on the site, stated that the proposal would be contrary to policy and recommended that permission should be refused, 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 report of the Assistant Engineer dated 2<sup>nd</sup> August 2022 outlined the relevant policy and the required sightlines. Further information requested.

**Environment Section** – The report dated 8<sup>th</sup> August 2022 highlights deficiencies with the proposed polishing filter. Further information requested.

**Municipal District** – The report of the Senior Executive Engineer dated 22<sup>nd</sup> August 2022 stated no objections. Condition recommended.

### 3.3. Prescribed Bodies

TII – No observations to make.

## 4.0 Planning History

### 4.1. Appeal site:

**P.A. Ref. No. P20/953:** Permission sought to construct a house, large basement garage, entrance, wastewater treatment system and associated site works (application withdrawn by Michael Mullally).

**P.A. Ref. No. P21/82:** Permission refused for a house, large basement garage, entrance, wastewater treatment system and associated site works due to non-

compliance with Objective CDP8.5, visual impact, the creation of an infill site, and insufficient legal interest in the entire site area.

## **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. New Single Rural Houses on Infill Sites**

#### **Objective CDP 4.16 New Single Houses on Infill Sites in the Countryside**

It is an objective of Clare County Council:

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 applicant must not already own or have owned a house in the surrounding rural area (except in the

exceptional circumstances as set out in sub-category iii under the Social Need criteria) and needs the dwelling for their own permanent occupation. The siting of new dwellings in the countryside so as to deliberately create a gap site of this nature will not be permitted. In circumstances where these sites occur in the 'Areas of Special Control', unless otherwise specified in this objective the provisions of Objective CDP4.14 (i.e., Economic or Social Need requirement) will not apply. The assessment of an application for a rural house on an infill site shall have regard to environmental considerations, the viability of smaller towns and rural settlements, siting and design issues and the Clare Rural House Design Guide.

### 5.3.3. **Strategic Regional Roads**

The part of the R465 regional road between Barry's Cross to Broadford Settlement boundary is designated a Strategic Regional Road under Section 11.2.9.4 of the Development Plan<sup>1</sup>.

#### **Objective CDP11.14 Development of Strategic Regional Roads**

It is an objective of Clare County Council:

- a) To seek funding for the delivery of and to upgrade and improve, where necessary, the Regional Roads in the county as outlined in Table 11.1 and Table 11.2. The Council will have regard to national, regional and local transport plans and the Council's own programme of works in this regard.
- b) To preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure. Developments requiring direct access onto the Strategic Regional roads identified in Table 11.1 will be restricted to the following categories:
  - i. Developments of strategic importance which, by their nature, are most appropriately located in a rural area;
  - ii. Developments located within settlement boundaries and residential clusters and where the 50kmph speed limit applies; and
  - iii. Rural dwellings which meet the following criteria –

---

<sup>1</sup> P.254, Table 11.1 Strategic Regional Roads, Clare County Development Plan 2023-2029.



- It must be clearly demonstrated that there is no reasonable alternative site with access off a minor road available;
- The development complies with the objectives as set out in Chapter 4 Urban and Rural Spatial Strategy;
- Full achievement of the sightline requirements for regional roads as set out in Appendix 1 Development Management Guidelines;
- The development does not undermine the strategic transport function of the strategic regional road network and where applicable does not compromise the carrying capacity at adjacent road junctions; and
- The development/enhancement of the regional road network is in compliance with the environmental requirements of Objectives CDP 11.17 and CDP3.3.

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

### **Settled Landscape**

‘Settled Landscapes’ comprise the network of farmland, villages and towns that make up the majority of the County. These landscapes are where the majority of the population live and work. They provide opportunities for enterprise, leisure and personal fulfilment. They contain the resources of land, soil, minerals and water that are used to sustain the economy.

### **Objective CDP14.2 Settled Landscapes**

It is an objective of Clare County Council:

To permit development in areas designated as ‘settled landscapes’ to sustain and enhance quality of life and residential amenity and promote economic activity subject to:

- I. Conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- II. 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;

III. Regard being had to the need to avoid intrusion on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:

- a) That the site has been selected to avoid visual prominence.
- b) That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads.
- c) That design of buildings and structures reduces visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.

**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 80kph requires sight distances of 160m.

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

The appeal site is not located within any designated site. The closest Natura 2000 sites are Glenomra Wood SAC (Site Code: 001013) and the Lower River Shannon SAC (Site Code: 002165), which are located approximately 300m and 5.4km to the west 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 grounds of appeal are submitted by Michael A. Burke Associates, Architectural Services, Main Street, Pallaskenry, Co. Limerick on behalf of the first party, Adrian Mullally, and the main points made can be summarised as follows:

- Cites three planning permissions where he considers that precedent for access onto the regional road has been established.
- Contends that the site is an infill site.
- Contends that the design of the house is site-specific and due regard has been given to neighbouring properties.
- States that the sheds can be removed from the site as they are not in use.
- Contends that the current application will regularise the required consent for the entrance.

### 6.2. Planning Authority Response

The planning authority response to the appeal dated 20<sup>th</sup> September 2022 states that the applicant does not meet the Development Plan criteria for an established rural landowner and has provided no information to substantiate the claim that he has resided in the local rural area since 1982. They further state that the precedent cases cited by the applicant were all assessed on their own merits within the boundaries of the Kilmore Cluster. The planning authority contends that there is no provision in law to regularise unauthorised development by means of a condition attached to a grant of permission and requests the Board to uphold their decision to refuse permission.

## 7.0 Assessment

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

- Rural Housing Policy
- Traffic Safety
- Unauthorised Development
- Other Issues
- Appropriate Assessment

### 7.1. Rural Housing Policy

- 7.1.1. The key issue to be addressed within this appeal relates to the question of whether the appeal site can be considered an infill site or not. If the appeal site is considered an infill site, an application / appeal for a house on the site would be assessed under Objective CDP4.16 of the Development Plan and, if it is not considered an infill site, an application / appeal for a house on the site would be assessed under Objective CDP4.14 of the Development Plan.
- 7.1.2. The applicant has 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 was made on the basis of the site being an infill site in accordance with Development Plan Objective CDP4.16 (previously Objective CDP3.13) where the provisions of Objective CDP4.14 (previously Objective CDP3.11 - local need requirement) do not apply.
- 7.1.3. In order to consider whether the proposed development on the appeal site can be assessed as being on an infill site the key wording in the Development Plan under Objective CDP4.16 is as follows:
- “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.”

- 7.1.4. The appeal site is located between two existing houses however, the roadside / southern boundary of the appeal site is approximately 61m in length which is almost twice the length of the roadside boundary of the two adjacent sites, and it is 0.9 ha. in size which is significantly larger than the size of the adjacent plots. On this basis, I am satisfied that this is not a small gap site and is not a substantial and continuously built-up frontage as described under Objective CDP4.16 of the Development Plan and, therefore, cannot be considered an infill site.
- 7.1.5. I also note that that the planning authority state that the precedent cases cited by the applicant were all assessed on their own merits within the boundaries of the Kilmore Cluster. In this regard, I draw the Board’s attention to the Kilmore Cluster settlement map in the Development Plan.<sup>2</sup> For ease of reference, I have included a copy of this map with this report. I have reviewed this map in both the old Development Plan and the current Development Plan. I am satisfied, and agree with the planning authority, that the appeal site is located outside of the designated cluster settlement of Kilmore.
- 7.1.6. Therefore, under the recently adopted Clare County Development Plan 2023-2029 the relevant rural housing policy for the appeal is contained within Objective CDP 4.14. I refer the Board 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>3</sup>
- 7.1.7. I also draw the Board’s attention to Development Plan Objective CDP11.14 for the development of Strategic Regional Roads where it is an objective of Clare County Council “to preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure”.

---

<sup>2</sup> P.144, Volume 3c, Clare County Development Plan 2023-2029, Killaloe Municipal District, Kilmore Cluster map

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

- 7.1.8. In this regard, information on the file submitted as part of the appeal indicates that the first party's parents with an address in Caherdavin, Limerick City purchased land (0.4856 ha.) in the area in 1982. It is further stated on the planning application form that the first party's father purchased the appeal site in 2012. No further evidence of linkage or details of housing need are included with the application or appeal.
- 7.1.9. 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.
- 7.1.10. 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.
- 7.1.11. In this case, 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 towns and villages of County Clare and the protection of the carrying capacity of Strategic Regional Roads.
- 7.1.12. 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. The applicant's housing needs could clearly be met within Limerick City or alternatively within another town or settlement in the vicinity of the appeal site.
- 7.1.13. 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 with a direct access to a designated Strategic Regional Road and 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**

7.2.1. Under Table 11.1 Strategic Regional Roads within the Development Plan, the R465 regional road between Barry's Cross and Broadford settlement boundary is designated a strategic regional road. Access to this type of road is restricted to certain categories (outlined above in section 5.3.3 of this report).

7.2.2. Similarly, 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."

7.2.3. The first party proposes a new access onto this regional road and includes a drawing (Site Layout Plan) demonstrating available sightlines of 90m in both directions. I note that the Council's road engineer's report stated that it was not clear that the required 160m sightlines for a road with an operating speed of 80kph were achievable. It is stated in Development Management Standards of the Development Plan that sight distances of 160m are required for a strategic regional road with a design speed of 80kph. Having reviewed the site layout plan and alignment of the road during my site inspection, I agree with the Council's road engineer and I am not satisfied that the required sightlines can be achieved to the north of the proposed entrance without the

removal of the hedgerow of the field to the north of the appeal site. 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 may be outside of the first party's control.

- 7.2.4. In relation to compliance with part b), iii. of Objective CDP11.14, the first party has not demonstrated full achievement of the sightline requirement. Further to this, I consider that it has not been clearly demonstrated that there is no alternative site available with access off a minor road ( b) iii., I.) or that the proposed development complies with the objectives set out in Chapter 4 of the Development Plan ( b), iii., IV.).
- 7.2.5. In conclusion, I have serious concerns about the sightline to the north 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.

### **7.3. Unauthorised Development**

- 7.3.1. The planning officer's report outlines significant concerns in relation to the level of unauthorised works that have been carried out on the site i.e., sheds, containers and an access. This manifested in the second reason for refusal on the notification of decision issued by the planning authority on 23<sup>rd</sup> August 2022, where it was considered that "the proposal to develop a dwelling house without the concurrent regularisation of the works which have already been undertaken on the site would compound an unauthorised use of the site."
- 7.3.2. In his appeal, the first party stated that the sheds are not in use. On the day of my site inspection, I noted that the site was divided into a number of paddocks to the front and rear of the sheds / containers. Although the access gate was securely locked, I can confirm to the Board that there was an animal present on the site and the sheds were in use.



- 7.3.3. However, planning enforcement is a matter for the planning authority and does not fall within the jurisdiction of the Board. There is no planning enforcement history referenced in the report of the planning officer of Clare County Council. As such, I consider that it is reasonable to assume that no enforcement case has been pursued by the planning authority to date and, therefore, it has not been definitively established what works, if any, carried out on the appeal site are authorised or possibly exempted development.
- 7.3.4. I conclude that, if there is any unauthorised development in relation to the existing structures and entrance on the appeal site, this is an enforcement matter for the Planning Authority and the Board has no role in relation to this matter.

#### 7.4. **Other Issues**

##### Design and Layout

- 7.4.1. As stated earlier in this report, the proposed development comprises the construction of a two-storey over basement in design with a ridge height of 9.433m, with render finish and slates on the roof. The proposed has a stated floor area of 182.3m<sup>2</sup>.
- 7.4.2. I consider the proposed house design to be simple in form and the split-level design to be suitable for the site and, therefore, I am satisfied that the proposed house would not present any significant adverse visual impact on this area designated as Settled Landscape.

##### Disposal of Wastewater

- 7.4.3. The First Party excavated the trial hole to a depth of 2.2m and the water table was found to be present at 2.1m. It is confirmed within the Site Characterisation Report that the appeal site is located over a locally important aquifer with moderate vulnerability, which requires a Groundwater Protection Response of R1. The T Value is stated as 52.17. Based on these results, the Site Assessor recommended a proprietary wastewater treatment system with secondary and tertiary treatment (soil polishing filter).
- 7.4.4. On the day of my site inspection, I noted that the ground conditions were good at the location where the wastewater treatment system is proposed 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. I note the comments within the report from the Environment Section of Clare County Council about the soil polishing filter and, if the Board is minded to grant permission for the proposed development, I recommend that a suitable condition be attached in this regard requiring the written agreement of the planning authority before any development commences on the site.

7.4.5. 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.

#### **7.5. 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 (Glenomra Wood SAC (Site Code: 001013) and the Lower River Shannon SAC (Site Code: 002165), which are located approximately 300m and 5.4km to the west 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 preserve the carrying capacity of Strategic Regional Roads and safeguard the investment in such infrastructure and to discourage urban generated housing in rural areas and to direct the provision for housing into towns and villages,

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 80 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.

---

Liam Bowe

Senior Planning Inspector

15<sup>th</sup> June 2023