



An
Bord
Pleanála

Inspector's Report ABP-314676-22

Development

(i) Chead Coinneála do chlaífort mar a tógadh é agus (ii) Chead chun teach cóaithe príobháideach, garáiste scoite, córas cóireála fuíolluisce agus na hoibreacha suímh go léir a bhaineann leis a thógáil.

Location

Cnoc na Fhraoigh, An Chreatalach,
Contae an Chlair.

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

22628

Applicant(s)

C MacConradha

Type of Application

Retention and Permission

Planning Authority Decision

Grant with conditions

Type of Appeal

Third Party

Appellant(s)

Matthew Broggy

Observer(s)

Michael Nugent

Date of Site Inspection

30th of December 2022

Inspector

Adrian Ormsby

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1.0 Site Location and Description

- 1.1. The appeal site is located in an upland rural area of south County Clare, in the townland of Heathmount approximately 2.5km to the north east of Cratloe and a further c. 9.5 km north west of Limerick.
- 1.2. The site is accessed via a local road that runs from Cratloe north east on to Gallows Hill c. 600m north east of the site. The lands are quite elevated at this location rising to 218m od a peak to the south and east of the application site. The site rises from the public road with contours ranging from 160-180m od.
- 1.3. The appeal site has a stated area of 1.9 ha as indicated in question 11 of the application form. It is noted the drawings suggest a site area of 1.2ha.
- 1.4. The site is accessed from the public road through an existing breached entrance in the roadside boundary and a generally clear route/pathway that has been made to provide access further up the site. This route meanders south west before turning south east.
- 1.5. At the time of the inspection the site was wet but firm underfoot with evidence of recent works to the site. The site was not in any apparent agricultural use.

2.0 Proposed Development

- 2.1. The application comprises off-
 - (i) Chead Coinneála do chlaífort mar a tógadh é agus (ii) Chead chun teach cóaithe príobháideach, garáiste scoite, córas cóireála fuíolluisce agus na hoibreacha suímh go léir a bhaineann leis a thógáil
 - (i) Retention Permission of embankment as constructed and (ii) Permission to construct house, detached garage, waste water treatment system and all associated site works.
 - The house has a proposed floor area of 237 sq.m and the garage will be 24.5 sq.m.
 - Water supply from a bored well.
- 2.2. Amongst the usual documentation the Application is accompanied by-

- An Architectural Design Statement prepared by LOD Architects
- Documentation in support of Rural Housing Need
- A Landscape & Vegetation Evaluation and Plan prepared by Emer Sherry Gardens
- Information addressing specific requests for Further Information for planning application 22/50 for a houses at this site.

2.3. Unsolicited further information was received from the Applicant on the 26/08/2022.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant permission on the 05/09/22 subject to 13 conditions generally of a standard nature, including the following-

- Condition 1 standard drawings and particulars submitted with application on the 12/07/22
- Condition no. 2 placed a 7-year occupancy restriction on the house and it shall be for permanent occupation only.
- Condition no.4 related to proposed entrance and required the finished level of the recessed entrance to be the same as the road level opposite the entrance gates.
- Condition 7 external finishes
- Condition 10 surface water
- Condition 11 wastewater treatment and disposal

4.0 Planning Authority Reports

4.1. Planning Reports

The report of the Planning Officer (dated 02/09/22) reflects the decision of the Planning Authority. The following is noted from the report:

- The site is located within an Area of Special Planning Control and is in an area under Strong Urban Pressure. CDP 3.11 is relevant.
- The site is within the Western Corridor Working Landscape- Objective CDP13.3 and is located off a designated scenic route- Objective CDP 13.7.
- Sightlines are achievable from the site. Concerns are raised regarding the proposed driveway meeting Part M of the Building Regs. There is notable change in levels between the entrance to the site and the road and the treatment of same is unclear. Concern is expressed with regard to safety exiting the site to the public road from the sloped entrance. This can be dealt with by way of condition.
- An updated topographical survey has been conducted showing a gradient of 1:9.6. The proposed WWTS does not pose a public health concern.
- The site is located 0.47km southwest of Recorded Monument CL052-069 (Gallows Hill) 0.78km north east of Recorded Monument CL052-060 (Castle Tower House). The proposal will not have a negative impact on the recorded monuments.
- The site is 1.3km west of Woodcock Hill NHA (002402). Given the distance the proposal would not have a negative impact on the NHA.
- The site is located within an area considered to be of high ecological value in a local context (Habitat Area HH3 Wet Heath). Details set out in the report from Emer Sherry Gardens details existing dominant species on the site. The applicants propose retaining all roadside boundaries and planting on site including heathers and gorse as well as additional planting. A condition is recommended to provide details of landscaping proposals for approval incorporating retention of heather, gorse and other species on the HH3 Wet Land species list found to be present.
- The Applicant has demonstrated a Local Rural Housing Need and they comply with CDP3.11.
- The proposal is acceptable from a visual and residential amenities perspective including the retention of the existing embankment.

- A Screening for Appropriate Assessment accompanies the Planners Report. It determines there is no potential for significant effects to European Sites.

4.2. Other Technical Reports

- Road Design Office-
 - 27/07/2022- It's not clear if the proposal meets part M of the Building Regulations. Further information required regarding the gradient of the drive.
- Environment Section-
 - 01/09/22- Conditions recommended

4.3. Prescribed Bodies

- None

4.4. Third Party Observations

- Two third party submissions were received. The issues raised are generally those raised in the grounds of appeal and observation received. They are summarised in section 7.1 and 7.4.

5.0 Planning History

This Site-

- R22-22 Section 5 The Planning Authority considered pre-planning site construction works to be development and not exempted development.
- 22/50- deemed withdrawn
- 22-573- incomplete application

6.0 Policy Context

6.1. National Planning Framework (NPF)

6.1.1. Objective 19 of the NPF outlines-

“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”

6.2. Ministerial and Other Guidelines

6.2.1. Sustainable Rural Housing Guidelines for Planning Authorities (2005) (SRHG)

- The appeal site is located in an area identified as under strong urban influence. In these areas the guidelines advise that the housing needs of the local rural community should be facilitated, but that urban generated housing demand should be met on zoned and serviced land within settlements (Appendix 3, Box 1).
- Section 3.2.3 deals with ‘Rural Generated Housing’ and describes examples that should be included in the development plan illustrating the broad categories of circumstances that would lead the planning authority to conclude that a particular proposal for development is intended to meet a rural generated housing need. Examples include-
 - *Persons who are an intrinsic part of the rural community*
 - *Persons working full-time or part-time in rural areas*
- Section 3.2.3 concludes that-

“Each planning authority should make its assessment of the scope and extent of rural housing needs to be considered in its development plan having regard to the framework outlined above.....

Having defined rural generated housing needs, the development plan should make very clear that subject to satisfying normal planning considerations.....the planning authority will look favourably upon an

applicant's proposal for an individual house in a rural area where that applicant comes within the development plan definition of need."

- 6.2.2. EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2021)

6.3. Clare County Development Plan 2017-23 as varied

- 6.3.1. Section 3.2.5 deals with Single Housing in the Countryside and sets out 'Rural Area Types' as required by the 2005 SRHG. The site is identified within a '*Rural area under Strong Urban Pressure*'. One key objective is-

To facilitate the genuine housing requirements of the local rural community (rural generated housing), subject to satisfactory site suitability and technical considerations; (Page 48)

- 6.3.2. CDP3.11 Development Plan Objective: New Single Houses in the Countryside within the 'Areas of Special Control' states-

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 C¹ 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.

¹ 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.

Note: Where the proposed site is accessed from a National route or certain Regional routes, the proposal must in addition to compliance with this objective, also be subject to compliance with objectives CDP8.4 and 8.5 as set out in Chapter 8.

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

- CDP13.2 Development Plan Objective: Settled Landscapes-

It is an objective of the Development Plan:

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

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

Developments in these areas will be required to demonstrate:

- *That the site has been selected to avoid visually prominent locations;*
 - *That the site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, water bodies, public amenities and roads;*
 - *That design for buildings and structures reduce visual impact through careful choice of forms, finishes and colours, and that any site works seek to reduce visual impact.*
- CDP13.3 Development Plan Objective: Western Corridor Working Landscape (criteria All lands within 10km on either side of the N18/M18 – except as excluded by Heritage Landscapes.

It is an objective of the Development Plan:

- 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:*
 - i That the site has been selected to avoid visually prominent locations;*
 - ii That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads;*
 - iii That 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.*

- **CDP13.7 Development Plan Objective: Scenic Routes**

It is an objective of Clare County Council:

- a. *To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;*
- b. *To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;*
- c. *To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.*

- 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.
- Appendix 5- Scenic Routes
 - Number 23- Road from Cratloe north east through Gallows Hill to Glennagross

6.4. Natural Heritage Designations

6.4.1. The site is located-

- c. 1.3 km west of Woodcock Hill Bog NHA (002402)
- c. 2.1 km north of Proposed Natural Heritage Areas: Garrannon Wood (001012)
- c. 3.3 km north west of Lower River Shannon SAC 002165

6.5. EIA Screening

- 6.5.1. Having regard to the nature and scale of the proposed development it is considered that there is no real likelihood of significant effects on the environment arising from the proposed development. The need for EIA can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.0 The Appeal

7.1. Grounds of Appeal

One third party appeal has been received from Leahy Planning Ltd. On behalf of Matthew Broggy (of Derrymore, Meelick, County Clare). The grounds of appeal can be summarised as follows-

- It does not appear that the applicant complies with rural housing settlement policy. He owns a house and owns lands in close proximity to the village of Meelick which should be investigated.
- The site is located at a high elevation and will be visible from a wide area. It is located on a designated scenic route as per the development plan. To grant permission would set a very unfortunate precedent along scenic routes and would undermine the Development Plan. Scenic routes are the subject of CDP 13.7 and other policies 13.2, 13.4 and 13.5.
- It is difficult to conclude that a proper visual assessment has been made of the likely visual impact on a scenic route.
- The site is in proximity to European Site NHA Woodcock Hill Bog 002402 which is described as being of considerable conservation significance.
- The site is located in an area of extreme groundwater vulnerability. The proposed percolation area is located in an area with a cross gradient of some 1:5. The Appeal details the recent planning history of the site in this regard. The current application submits contour levels showing the percolation area at a gradient lesser than shown in the contour survey of the earlier application. The EPA Code of Practice for wastewater treatment and disposal (the COP) makes it clear that sites where the slope exceeds 1:8 are inherently unsuitable for the type of wastewater system proposed.
- Notwithstanding the content of the current application which details a new land survey has been carried out the site layout the percolation area in a section of land with too steep a gradient 1:5.5.
- The difference in site levels can only have come about by artificially levelling the area of ground to comply with the EPA COP. The overall gradient of the site is important for determining site suitability. The proposal does not comply with EPA standards.
- The EPA Land and Soil Classification map shows the land is indicated as having bedrock close to the surface. The Soil Map classifies Woodstock Hill as being 'peat' and site suitability map indicates unclassified-mostly peat.

These and the site gradient call into question the suitability of the site for disposal of effluent.

- The steepness of the site leads to an unsafe accessway creates a traffic hazard, is unsuitable for vehicular access and is incompatible with part M of the Building Regulations.
- Condition 4 does not address the change in level between the site and the roadway. The failure to provide an appropriate gradient at the entranceway is likely to lead cars exiting the site too quickly of slipping in icy conditions.
- In order to secure adequate sight distance in either direction substantial excavation will be needed at the entranceway.
- Substantial cutting and creation of berms is required to provide the entrance access way. This will significantly change the landscape.
- The appeal is accompanied by Extracts from Part M of the Building Regulations, Extract from Site Development Works for Housing Areas 1998 (I note this refers to National Roads) and Extract maps from Soils of Count Clare.

7.2. Applicant Response

The Applicant's response to the grounds of appeal can be summarised as follows-

- The Board are asked to strike out the appeal on vexatious/frivolous grounds.
- Details of a historical dispute between the Applicant, his family and the Appellant are set out with supplementary information submitted.
- The Appellant does not live locally.
- The Applicant sets out his local links with the landholding being in his family for five generations. Ownership of the lands were transferred to the Applicant from his uncle in 2018.
- The Applicant and his wife farm the lands. They are full time farmers who rely on the income that the farm generates.

- The Applicant has represented the Cratloe community from 2004-2020 as a County Councillor and 2020 to present as a TD.
- The Applicant is a primary school teacher by profession (currently on career break following election to Dail Eireann. He is employed at Parteen National School in the next parish to Cratloe.
- The Applicant sets out his local community Involvement and details his families involvement in the Cratloe area.
- The Applicant bought a home in his early 20's. At that time he did not foresee he would be farming. This home is too remote from the farming lands and not in accordance with good sustainability for a farmer to take a circuitous journey on a daily basis to manage the farm needs.
- He provides care to his elderly uncle and sister with details of same set out.
- The applicant and his wife are real farmers not hobby farmers. They depend on an average yet sizeable income from their farm to support their family. Looking after their land and animals is a full time job.
- Evidence of the Applicant's qualifications in farming are submitted.
- Letters of support from Mr. Tom Lane (Chairman of Clare IFA County Executive), Mr Pat O'Shea (Applicants Farm planner) and Mr. Willie Coughlan (neighbouring farmer) are submitted.
- No objections have been received from people living in Clare.
- The submission from the Applicants Farm Planner details the applicant and his uncle have a suckler beef herd, their herd number and that they are in a registered farm partnership.
- A letter is submitted from the Applicants wife detailing she is also a primary school teacher on career break in order to be available to run the farm on a full time basis and to take care of the Applicants uncle. The letter sets out the practicalities of same and living in their current home.
- The Applicant bought his current home in 2006 and did not foresee his current situation. He now has an acute need to live on his farm holding.

- He intends to sell his current home once he builds on the farm. This will contribute to the availability and supply of housing in the local area.
- The Applicant sets out the current environmental impact from his home to the farm with a 4 times per day 13.6km commute. The carbon emissions from these vehicular journeys do not sit well with their positive ethos towards the environment.
- A letter from the Applicants farm accountant details the financial costs of the daily commute.
- The entirety of the landholding with the exception of the application site is permanently pasture Greenland used for grazing and silage. This feeds the herd and meets environmental benchmarks for farmers. The pasture lands are what his single farm payment subsidy are based on with the application site not eligible for payment. The application site is not productive or income generation whereas the remainder is. A report setting out constraints for the landholding is attached with the response.
- The proposed location of the house is located on a less elevated perch of ground than neighbouring already built houses in the area. Other locations in landholding are also at heights with areas of landholding identified close to sea level in Lower Meelick.
- A report is submitted from Pat O'Shea Farm Planner detailing the Applicants landholding and the productive farming nature of all lands except the application site.
- The Response is accompanied by a report from Andrew Hersey Planning Consultant. This details that many aspects of the appeal are inaccurate.
- The applicant constructed an embankment around the site and planted native plant species. The Applicant was of the opinion these were exempt. Following a Section 5 declaration which the council determined permission was required, the Applicant lodged the subject application to include for retention of the embankment.
- With reference to compliance with rural housing policy the Applicant is a Local Rural Person, from the Local Rural area. He does not have a house in the

local rural area and therefore has local rural Housing Need. His current house is not a house in the rural area and therefore he has a rural housing need in accordance with the County Development Plan. Further compliance with the plan is also detailed.

- With regards to the NPF and NPO 19 the Applicant has a social obligation to live in the area and has demonstrated an economic and social need to reside in this area.
- The Applicant complies with the Sustainable Rural housing Guidelines 2005 i.e. persons who are intrinsic part of the rural community and persons working fulltime or parttime in rural areas.
- The site is located in an area designated as a Settled Landscape in the CDP. CDP13.2 allows for development in such areas subject to listed criteria. The site is located adjacent to a Scenic Route under CDP13.7. The Applicant has strived to comply with these. The site and house will be visible with glimpses from the public road but when hedgerow planting grows such views will disappear. A report from Emer Sherry Gardens accompanied the planning application and shows the proposal will not be visible in the wider landscape nor the road. The site has been carefully considered from the landholding and compliance with CDP13.2 is detailed.
- Settled Landscapes are not the highest level of protection for landscapes in the CDP i.e. Heritage Landscapes. The client considers the site is not located in a *sensitive area* as sated in CDP13.7. The proposal is not an inappropriate use for the area given farmhouses are intrinsic part of rural areas. Compliance with CDP13.7 is detailed.
- The Applicants landholding for the most part is located in an upland area and is most suitable as it cannot be farmed due to its topography. Much of the landholding is backland from the public roads. Other lands are located directly adjacent to Woodcockhill NHA with potential associated concerns. These lands are also at a higher elevation.
- Section 6.2 of the EPA COP deals with the issue of slopes. It does not say the entire site needs to be less than 1:8. Previous application 22/50 raised

concerns over the slope through FI but has subsequently been withdrawn by not responding. The area of the proposed wwtp and percolation area has been surveyed again with spot levels showing a slope of 1:9.6. The site was not artificially amended to reduce the slope. There was simply an error in the original survey. T Test results on the site recorded a positive value of 16.94 and the site is suitable for wastewater treatment system and a percolation area. This is supported by the Council Environment Section report. The site has been assessed by an appropriately trained and qualified assessor. There will be no impact to groundwater as a consequence of the proposed development.

- The issue of compliance with the building regulations is not a planning matter. The Applicant will need to submit documentation to the council in order to obtain a Commencement Notice. If issues arise with the access driveway requiring planning permission a new application will be made. The same applies to concerns regarding the levels of the entrance adjoining the public road.

7.3. Planning Authority Response

The Planning Authority's response to the grounds of appeal can be summarised as follows:

- The issues outlined in the appeal have been dealt with and adequately addressed in the Planners Report which formed part of the decision to grant permission.

7.4. Observations

An observation has been received from Michael Nugent of Michael Nugent & Co. Solicitors, 6 Sandford Road, Ranelagh, Dublin 6. It can be summarised as follows-

- There are serious concerns over the principles of equality and transparency.
- Information of planning history relevant to the site are set out including assertions of unauthorised development at the site, the fact two applications

ran at the same time for the same thing, the question of the person/s named making the two applications and the outcome of a section 5 referral.

- The manner of proceedings has obvious unfortunate consequences from a public transparency perspective. The proposal could have been dealt with through 22/50 with significant further information, the applicant used the Irish language to advertise the new application but reverted to English within the application. People may not recognise the Irish version of the Applicants name of the site of the application.
- The Observer considers it reasonable to assume the above was to hide the application from scrutiny to those who may wish to object.
- The current application makes no reference to 22/50 and does not refer to the unauthorised nature of the development for which retention is sought.
- Observations submitted for 22/50 are enclosed and should also be considered.
- Considering objective 13.7 the site cannot be considered anything other than inappropriate. The Council have refused a number of applications in the area for multiple reasons. Yet an exception is made in this instance.
- No consideration appears to have been given to the core of objective 13.7 to avoid visually prominent locations.
- The embankments only provide partial screening and backdrop to the house. But this is only relevant to short distance views when approaching on the public road. The site is extremely elevated and visible for miles around. The embankments themselves are intrusive and are starkly visible, including from the Gallows Hill Monument Site and the hills leading to Woodcock Hill Bog Heritage site and across the valley as far as Sixmilebridge and beyond.
- There is little doubt that without the embankments the proposed house would have been deemed too intrusive on the receiving landscape.
- If the embankments are combined with views of the proposed house injury to the visual amenity of both the local and wider area will be significantly worse.

- The site is considered ecologically vulnerable and works have been carried out. The matter of damage to that ecological value is ignored.
- Blanket bog is a globally endangered peatland habitat and a protected habitat under European and Irish Law. Woodcock Hill Bog have been designated under the EU Habitats Directive or Natural Heritage Areas under the Wildlife Acts. A grant of retention endorses this habitat destruction.
- It is inappropriate to grant trees let alone evergreen species that will alter the ecological balance of the site. There is no mention of the abundance of breeding woodcock pairs on the site.
- Reference is made to possible unauthorised development on other sites nearby. Conditions of landscaping are not effective in achieving the objectives stated.
- The elevated nature of the site makes it unsuitable in terms of excavation, environmental damage, adequate drainage and water supply. The applicants have not demonstrated compliance with Part M of the Building Regulations.
- Access to landholding information is important to identify alternative locations that might be suitable. Folio CE26245F is a possible site located closer to the Applicants parents' home. There are numerous other sites none of which are as visually obtrusive
- The observation is accompanied by the section 5 referral R22-22 and third party submissions received by the Planning Authority for planning application 22/50.

8.0 Assessment

8.1. Introduction

- 8.1.1. I have examined the application details and all other documentation on file, including the submissions received in relation to the Appeal. I have inspected the site and have had regard to relevant local/regional/national policies and guidance.
- 8.1.2. I am satisfied the substantive issues arising from the grounds of this third party Appeal relate to the following matters-

- Rural Housing Need
- Scenic Views and Visual Impact
- Road Safety Issues
- Wastewater Treatment
- Other Matters
- Ecological Considerations
- Appropriate Assessment

8.2. Rural Housing Need

- 8.2.1. The Planning Authority consider the Applicant has proven his rural housing need in accordance with objective CDP3.11 of the County Development Plan. This is based on being a 'Local Rural Person'.
- 8.2.2. The Applicant has detailed in the application he currently owns a house in Clonard, Westbury, Co. Clare, is employed as a TD for the Clare constituency and is on career break as a primary school teacher. The Applicant submits significant documentation in support of the application and in response to the appeal seeking to further justify his rural housing need.
- 8.2.3. The Appellant questions the Applicants compliance with rural housing need and highlights his ownership of a house within the suburbs of Limerick. It is questionable why the Appellant raises the Applicant's compliance with settlement policy on the basis of owning a property yet then suggests other family lands in the rural area that may be more suitable for his proposed home. One would expect such a ground of appeal to argue that the Applicant does not comply in any part of this rural area.
- 8.2.4. National Policy Objective 19 of the National Planning Framework (NPF) seeks to facilitate the provision of single housing in the countryside based on the core consideration of demonstrable economic or social need to live in a rural area in areas under strong urban pressure.
- 8.2.5. The Sustainable Rural Housing Guidelines for Planning Authorities (2005) (SRHG) defines Rural Areas Under Strong Urban Influence as areas that-

‘exhibit characteristics such as proximity to the immediate environs or close commuting catchment of large cities and towns, rapidly rising population, evidence of considerable pressure for development of housing due to proximity to such urban areas, or to major transport corridors with ready access to the urban area, and pressures on infrastructure such as the local road network.’

- 8.2.6. The application site is located in a rural area which has been identified in Section 3.2.5 of the County Development Plan (CDP) as a ‘Rural Area under Strong Urban Pressure’ in accordance with the 2005 Guidelines. The key objective of the Council can be summarised as to facilitate the genuine housing requirements of the local rural community (rural generated housing) and to direct urban generated development to areas for new housing development in the adjoining urban centres, town and villages.
- 8.2.7. The Clare CDP identifies ‘Areas of Special Control’ which includes ‘Rural Area under Strong Urban Pressure’ and ‘Sites accessed from Scenic Routes’. The application site meets these two criteria. Objective CDP3.11 of the CDP requires applicants for houses in these areas to meet one of three categories to prove their rural housing need. Such applicants must be one of –
- Local Rural Person, which includes 3 further criteria in itself-
 - Local Rural Person
 - Local Rural Area
 - Local Rural Housing Need
 - Persons working full time or part-time in rural areas.
 - Exceptional Health and / or family circumstances.
- 8.2.8. Part 2 of the planning application form seeks information pertinent to applications for houses in rural area. Part 2 (a) details the Applicant is seeking a permanent residence and is the landowner. Part 2 (b) confirms the Applicant and his spouse own a house in Westbury Co. Clare. It includes all previous places of residence. The final question on the form seeks a declaration from the Applicant confirming all the information is correct and accurate. The declaration signature appears to be that of the Applicant’s agent. The Planning Authority have validated the application and in

the absence of information to the contrary it is appropriate to consider the file based on the information declared.

- 8.2.9. The Applicant has also submitted personal information in support of the application form to comply with Category A which shows he is a 'local rural person', seeking to build in his 'local rural area' and he is a person with a 'Local Rural Housing Need'. The Planning Authority have considered he complies with Objective CDP3.11 of the County Development Plan (CDP).
- 8.2.10. The Applicant has submitted information identifying the family home and evidence he was born there. This home is located c. 4km to the south east of the application site and well within the required 10km radius of the 'Local Rural Area'. The Applicant (or his agent on his behalf) has declared all previous places of residence and that he owns already owns a house. This house is in the urban area of Westbury, Co Clare and is not in the 'local rural area'. In this regard it appears the Applicant complies with Category A of Objective 3.11 of the CDP.
- 8.2.11. The Applicant also puts forward a case for consideration under Category B. This is based on his work as a farmer. The criteria of the CDP requires such persons who by the nature of their work to have a functional need to reside permanently in the rural area close to their place of work. Such circumstances encompass persons involved in full-time farming. The CDP makes provision for similar part-time occupations where it can be demonstrated that it is the predominant occupation. Based on the information set out in the Planners Report it appears the Planning Authority did not consider the Applicant complies with Category B.
- 8.2.12. Having considered the necessary criteria and the information submitted by the Applicant, it would appear he does not comply with Category B i.e. he is not engaged in full-time farming and his predominant employment is clearly that of a TD. The functional need in this regard could be served from the Applicants current urban home in County Clare.
- 8.2.13. Category B also makes provision for applicants who are not considered eligible under the preceding categories and they may be considered as qualifying to build a permanent home in the rural areas, subject to their commitment to operate a full time business from their proposed home in a rural area, in order for example, to discourage commuting to towns or cities. Applicants must be able to submit evidence

that their business will contribute to and enhance the rural community in which they seek to live and that they can satisfy the Planning Authority that the nature of their employment or business is compatible with those specified in the local needs criteria for rural areas.

8.2.14. I acknowledge the bona fide intentions of the Applicant as regards to farming and that he has indicated he is in a registered farm partnership and has successfully obtained agricultural qualifications. However, based on the information on file I am not satisfied the Applicant has submitted conclusive evidence that he will operate a 'full time' business from the proposed home and that it will contribute to and enhance the rural community in which he seeks to live and that it that it will serves a predominantly local rural business need.

8.2.15. The information submitted by the applicant also suggests he wishes to be considered under Category C- Exceptional Health and/or Family Circumstances. Based on the information set out in the Planners Report it appears the Planning Authority did not consider the Applicant complies with Category C.

8.2.16. I have considered the information submitted and on file under Category C. I acknowledge the bona fides of same. However, in my opinion-

- 'exceptional health circumstances' to live at the proposed site and
- 'established affiliations or connections with the landholding' and 'service and support to the landowner'

have not been conclusively demonstrated.

8.2.17. Having considered all of the above the Applicant appears to comply with Objective 3.11 of the CDP under Category A- 'Local Rural Person' only.

8.2.18. Notwithstanding the above compliance with local policy, National Policy Objective 19 of the NPF requires that, in rural areas under urban influence, the core consideration for the provision of a one-off rural house should be based on the demonstratable economic or social need to live in the rural area and should have regard to the viability of smaller towns and rural settlements. In addition, the Sustainable Rural Housing Guidelines, 2005 note that circumstances for which a genuine housing need might apply and include persons who are an intrinsic part of the rural community and persons working full time or part time in rural areas.

8.2.19. I have considered NPO19. It is clear the Applicant is not required to demonstrate he has both an economic and social need and compliance can be achieved on the basis of one or the other. The Applicants case is however, made on both his economic and social need to live in this rural area.

8.2.20. While all new housing in all rural area types challenge the viability of smaller towns and rural settlements to some extent, it is clear the NPF does provide for circumstances where one-off housing in rural areas under urban influence can be facilitated i.e. it does not prohibit rural housing in these areas but seeks to limit it to people with such needs only.

8.2.21. The Sustainable Rural Housing Guidelines for Planning Authorities April 2005 (SRHG) provides guidance for consideration of applications such as that proposed. In particular section 3.2.3 seeks to explain 'Rural Generated Housing' and provide examples of people who would generate such housing.

8.2.22. One example given is "*Persons who are an intrinsic part of the rural community*". The guidelines describes these persons as-

"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..... people who have lived most of their lives in rural areas and are building their first homes. Examples in this regard might include sons and daughters of families living in rural areas who have grown up in rural areas and are perhaps seeking to build their first home near their family place of residence....."

Based on the information on file and the fact the Applicant has demonstrated compliance with local rural housing policy, I am satisfied he can be considered a person coming within the description of "*Persons who are an intrinsic part of the rural community*".

8.2.23. Another example given is "*Persons working full-time or part-time in rural areas*"-

"Such circumstances will normally encompass persons involved in full-time farming, forestry, inland waterway or marine related occupations, as well as part time occupations where the predominant occupation is farming/natural resource related. Such circumstances could also encompass persons whose

work is intrinsically linked to rural areas such as teachers in rural schools or other persons whose work predominantly takes place within rural areas”

The Applicant has indicated his current occupation is a TD and this would to most reasonably minded people be his predominant occupation. In this context, it is not appropriate to consider teaching locally but on career break, as justifying his rural housing need. Having considered this example of ‘Rural Generated Housing’ it is difficult to conclude the Applicant is currently working full time in farming or that his part time work in farming is his predominant occupation. Therefore, I am not satisfied based on the information on file the Applicant can be considered a person coming within the description of “*Persons working full-time or part-time in rural areas*” as per the SRHG.

8.2.24. Appendix 3 of SRHG Box 1 provides additional direction for ‘Areas under strong Urban Influence’ and details the key development plan objectives should be to on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority while on the other hand directing urban generated development to cities, towns and villages. The Applicant has demonstrated compliance with Objective CDP3.11 Category A i.e. the housing requirements of the rural community as identified by the planning authority. On balance, the fact he bought a house in an urban area some years ago does not equate his local need as urban generated.

8.2.25. The merits of SRHG Box 1 are similar to NPO19. The SRHG were clearly used in the formulation of objective CDP3.11 of the CDP. In this context, the applicant has demonstrated he lived in his family home c. 4km from the application site for a substantial period of his life, is seeking to build his first home in the ‘local rural area’², and has not or does not own another home in the rural area. A signed declaration³ has also been, made to this effect on his behalf. Accordingly he would seem to have a genuine rural housing need based on one of the core considerations set out in NPO19 i.e. a demonstrable ‘social’ need to live at this location.

² As defined in the CDP Objective 3.11

³ The Board are reminded the declaration has not been signed by the Applicant but is signed by the Applicant’s agent. This declaration is signed by the stated person acting on behalf of the applicant (question 7 of Part 1 of the Application form).

8.3. Scenic Views and Visual Impact

- 8.3.1. The Appellant raises amenity concerns regarding the exceptionally high elevation of the site which will be visible from a wide area and by granting permission a very unfortunate precedent will be set along scenic routes. The Appeal refers to CDP 13.7 and other development policies contained in the CDP 13.2, 13.4 and 13.5. It questions if a proper visual assessment of the visual impact has been made.
- 8.3.2. Objectives CDP13.4 and CDP13.5 of the CDP are not considered relevant to the application site.
- 8.3.3. The Planning Authority have considered the proposal acceptable from a visual perspective including the retention of the existing embankment.
- 8.3.4. The Applicant has detailed his landholding and sought to justify the site selection highlighting the unproductive nature of the lands from an agricultural perspective and the proximity of the site to his other landholding. This is a reasonable basis for site selection.
- 8.3.5. The site is located on an elevated site abutting a section of public road that has been identified a 'Scenic Route within the CDP. Accordingly Objective CDP13.7 is relevant. Section 13.2 discusses the 'Evolution of Landscape Designations and Protections in County Clare, Section 13.3.2 details 'Living Landscape Types' in which the site is within the 'Settled Landscape' comprising the network of farmland, villages and towns that make up the majority of the County. Objective CDP13.2 details criteria which development in these areas should demonstrate, most notably the site should avoid visually prominent locations, the site avails of existing topography and vegetation to reduce visibility from scenic routes, the design reduces visual impact and the site works seek to reduce visual impact.
- 8.3.6. The Scenic Route is identified as the local road from Cratloe north east through Gallows Hill to Glennagross' as per Map C Landscape Designation of the CDP. This is also shown in map 13A of the Landscape Designations of the main CDP document and further detailed in Appendix 5.
- 8.3.7. In summary Objective CDP13.7 seeks to protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community. It also requires proposals to consider their effects on views from the

public road towards scenic features and to ensure that appropriate standards of location and siting etc. are achieved. This objective does not require a 'Visual Impact Assessment' to be submitted with the application nor does the CDP prohibit development such as that proposed along such scenic routes.

- 8.3.8. The CDP is relatively silent on what the 'sensitive areas' or 'scenic features' are in the context of this scenic route. I have inspected the site from the general area of the proposed house as well as from the public road. I also drove from Cratloe to the site and further north before turning towards Sixmilebridge while considering views to and from the Scenic Route and noting the presence of similar developments in the area.
- 8.3.9. I acknowledge the high quality of views to and from the identified Scenic Route, as well as from the application site itself. I do not consider the views towards or from the general area of the site along the Scenic Route to be overly 'sensitive' or of 'scenic features' that would warrant refusing appropriate development.
- 8.3.10. While views of the proposal may be visible from the wider area the extent of this impact would be mitigated by the distance of such views, proposals for landscaping, the embankments to be retained and the clear back drop of higher land behind the site.
- 8.3.11. While works to develop the site may be more evident during the construction stage this is generally the case with all development. Upon completion and subject to appropriate landscaping, the proposal development of a house would not be an intrusion on the Scenic Route nor will it significantly or negatively detract from the Scenic Route or the visual amenity of the area to an extent warranting a refusal.
- 8.3.12. The site, although elevated is not visually prominent with views towards the proposed house intermittent and/or visible only from a considerable distance. The site avails of its existing topography by virtue of not breaching the skyline (as acknowledged by the Appellant) and CDP13.2 makes provision for site works such as the embankments to be retained and landscaping to reduce visual impact. The proposal is relatively modest in terms of its rural design, height and layout. The proposal is not considered contrary to objectives CDP 13.2 or 13.7.

8.4. Road Safety Issues

- 8.4.1. The Appellant raises concerns relating to the proposed accessway to the house and the excessive steepness of the site. He refers to National Road Standards which recommend gradient of 1:50 for a setback of 5m with a general gradient of 1:20 thereafter. He argues the proposal does not comply with Building Regulation M. Overall the concern relates to traffic safety in icy conditions and vehicles may slip forward on to the public road and that deep excavation is required to secure adequate sight distances from the entrance.
- 8.4.2. The Planning Authority have permitted the development subject to Condition 4 which requires the finished level of the recessed entrance to be the same as the road level opposite the entrance gates.
- 8.4.3. The Applicant response to the Appeal details 90m visibility splays are available in both directions and there is no requirement to remove hedgerow. He considers the matter of car slippage is a building regulation one and not one for the planning code.
- 8.4.4. As the Board are aware development such as that proposed are required to comply with Building Regulations under a separate code to Planning. Access to the proposed house under Building Regulation M is therefore not a matter for the Board to be concerned with. However I would agree with the Appellant that the risk of a traffic hazard from a steep access at an entrance is relevant to this planning assessment as it has the potential to create a traffic hazard and impact upon public safety.
- 8.4.5. The application proposes an entrance to a county road which is maintained by the local authority. While the speed limit on the road may be 80kph the design speed and actual speed of traffic is less. I am satisfied that adequate sight lines in both directions are shown on the proposed site layout plan, are achievable from the entrance and are not dependant on deep excavation to achieve them. I do not consider the standards for national roads as regards gradient to be appropriate in this context and the Council have raised no planning concerns in this regard.
- 8.4.6. I note the existing site contour drawing shows the existing route/pathway within the site. Having inspected the site an access driveway meandering the site such as the existing pathway route would provide a reasonable gradient and safe turning

manoeuvres at the entrance where any risk of site slippage in icy conditions could easily be mitigated with a level threshold to the public road.

- 8.4.7. The proposed site layout plan shows a shorter and steeper access route to the house. However, subject to an appropriate level platform at the entrance threshold to the site as suggested by the Planning Authority I see no reason why safe turning manoeuvres at the entrance cannot be facilitated in all weather conditions.
- 8.4.8. The site is steep and there may be challenges in providing the access threshold from the public road and the route of the driveway from the entrance that may be difficult to foresee at application stage. This may necessitate some flexibility or change within the red line site boundary. It is therefore appropriate to include a condition seeking final details of the access route to be agreed in writing with Planning Authority prior to commencement of works to the house.
- 8.4.9. Steep entrance driveways to houses on elevated sites are not unusual in rural or urban environments and can be facilitated from local roads. In this regard I recommend a condition requiring the entrance threshold and gradient of the access driveway to not exceed 3% for the first seven metres adjacent to the carriageway of the public road and details of the final route of access driveway to be agreed.

8.5. Wastewater Treatment

- 8.5.1. The main ground of appeal in this regard relates to apparent discrepancies in site levels and the resultant slope as detailed in the subject application and a separate application on the site that has subsequently been withdrawn- 22/50. The Appellant refers to the EPA 2009 Code of Practice- Wastewater Treatment and Disposal Systems Serving Single Houses 2009. This has been replaced by the EPA Code of Practice: Domestic Waste Water Treatment Systems 2021.
- 8.5.2. It appears that Further Information (FI) was requested on the withdrawn application which highlighted concerns relating to the proposed location of the wastewater treatment system (WWTS) and a slope of 1:8 that does not comply with EPA COP.
- 8.5.3. The subject application details that in order to regularise a matter of unauthorised development that was highlighted through a Section 5 request by a third party at this site, the Applicant decided to submit the subject application to regularise those matters and to address the issues raised in the FI all through this new application.

- 8.5.4. I note the concerns of the Appellant and Observer in this regard. The issues could have been addressed through Significant Further Information (SFI). On the other hand, a new application requires new public notices and affords third parties a longer period to make their submissions than would be the case for SFI. The approach taken by the Applicant is transparent and sensible.
- 8.5.5. In addressing the concerns relevant to the slope the Applicant indicates the original site survey was carried out in October 2020 and the survey noted the contours were approximate. A new more detailed survey was completed in May 2022 which included the works to the embankment, pathway through the site and general location of the percolation area.
- 8.5.6. The new site survey drawing shown at 1 metre contours generally reflects the conditions of the site at the time of my inspection. I also note this drawing has been accepted as part of the application through the Planning Authority's validation process in accordance with the Planning and Development Regulations 2001 (as amended).
- 8.5.7. The Applicant has submitted a Site Characterisation Report (SCR) in which he proposes to discharge treated wastewater to groundwater. The SCR identifies the site over a locally important aquifer, with a groundwater vulnerability of Extreme and an R2¹ groundwater protection response.
- 8.5.8. The trial hole was opened in May 2021 to 2.3m with the water table encountered at 2m. Gravely sandy silt was identified below peat Loam from 0.4m down. The Assessor indicates the slope at the site is shallow between 1:5-1 :20. This is challenged by the Appellant referring to the previous application 22/50 which is now withdrawn and in which a steeper slope was indicated. The Appellant also refers to the subject site layout plan continuing to show the percolation area with a fall of 1.5m over 8m giving a slope of 1:5.5.
- 8.5.9. Section 5.1 of the EPA COP 2021 details the rationale for slope gradient in section 3 of the SCR. It highlights difficulties with installing pipework and discharge on steep sites. Section 6.2 details wastewater treatment systems are not permitted on angles in excess of 1:8 but lower slope angles if present on site should be used. Section 6.6 of the COP deals with selecting the appropriate treatment system and details the type of system selected should consider if the area hosting it has a suitable slope.

The assessor has selected a small polishing filter area which pre-empts the slope difficulties likely to be encountered by the size required for a standard percolation area. Having considered all of this I am satisfied that it is not the overall slope on site that should be considered but instead is only the slope of the area of the proposed polishing filter.

- 8.5.10. The Applicant response to the Appeal details the new more accurate survey showed a slope of 1:9.6 and the previous result in 22/50 was simply an error in the original contour survey. I do not have access to the previous survey and it is the drawings and contents of this application that must be assessed.
- 8.5.11. The area of the polishing filter nearest the western site boundary on the existing site contour drawing shows spot levels ranging from 171.37 to 172.27. The proposed site layout plan identifies the polishing filter across these specific spot levels with a distance between of 8.618m indicating a fall of 0.9m over 8.618m or a slope of 1:9.57. This slope is acceptable in the context of the COP.
- 8.5.12. The Planning Authority's Environment Section have raised no concerns over the proposal to treat and discharge wastewater including the slope. The site assessor has tested the site and designed a proposal that is considered to comply with the requirements and minimum separation distances from sensitive receptors as per the EPA Code of Practice Wastewater Treatment and Disposal Systems Serving Single Houses (2021).

8.6. Other Matters

- Concerns are raised in relation to works on the site that the Council have determined are not exempted development. These works are considered to be unauthorised. I note these works are subject to retention in this application and therefore the Applicant is seeking to regularise the situation. Matters of unauthorised development are ones for the Planning Authority and not An Bord Pleanála.
- I note concerns raised in relation to two applications running side by side for similar development albeit the latter included retention of works carried out at the site, the request for further information in 22/50 and the use of the Irish language for just the Applicant in the development description as advertised

publicly. The current application was validated by the Planning Authority. The site notice was presented in yellow indicating a new application within six months of an already valid application and on the same site. The subject application received two third party observation/submissions, an appeal and an observation on the appeal. I am satisfied the application is sufficient to describe the proposal and the public were reasonably and adequately notified as per the Planning and Development Regulations 2001 (as amended).

- The Applicants have requested the appeal be dismissed under section 138 of the Act as it is considered vexatious. The Board may wish to give consideration to this.

8.7. Ecological Considerations

- 8.7.1. The Appellant raises amenity concerns relating to the sites proximity to “European Site NHA Woodcock Hill Bog site code 002402”. I note similar concerns are highlighted in the observation to the Appeal.
- 8.7.2. The Planning Authority have considered the proximity of the site to the NHA. They are satisfied the distance from the site is such that the proposed development and that to be retained will not negatively impact upon the NHA.
- 8.7.3. Notwithstanding this they have considered the high ecological value of the site in its local context. They refer to the ‘Landscape & Vegetation Evaluation and Plan prepared by Emer Sherry Gardens’ which identifies a dominant specie within the site ‘Heather’. The Planning Authority accordingly condition details of landscaping to be approved which I consider to be reasonable in this context.
- 8.7.4. The site is 1.3km west of NHA Woodcock Hill Bog 002402. This NHA is a national designation and is not a European Designation. I share the Planning Authority’s view that the development proposed and to be retained is sufficiently distant from the area of the NHA and will not have a significant impact upon same to warrant refusing the application.

8.8. Appropriate Assessment

- 8.8.1. Having regard to the nature and scale of the development proposed and to be retained in this rural area, the separation distances of the site to the nearest European sites, the absence of any direct pathway between the appeal site and European sites, the hydrological distance of indirect pathways to European Sites e.g. via roadside drainage ditches, tributary streams etc where any likely pollutant in surface waters would be sufficiently diluted and or dispersed, no Appropriate Assessment issues are considered to arise, and the proposed development and that to be retained would not be likely to have a significant effect individually or in combination with other plans or projects on any European site.

9.0 Recommendation

- 9.1. I recommend that permission is granted subject to the following conditions.

10.0 Reasons and Considerations

- 10.1. Having regard to the provisions of the National Planning Framework (2018) including NPO19, the Sustainable Rural Housing Guidelines for Planning Authorities 2005, the Clare County Development Plan 2017-2023 (as varied), and the nature of the proposed development including its siting and design, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the visual amenities of the area, including views from the designated Scenic Route, would not create a traffic hazard and would not endanger public health. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, 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. (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, as amended to this effect.

(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. 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.

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.

3.

- (a) The entrance gates to the proposed house shall be set back not less than four metres and not more than six metres from the edge of the public road. Wing walls forming the entrance shall be splayed at an angle of not less than 45 degrees and shall not exceed one metre in height.

(b) The existing front boundary shall be retained except to the extent that its removal is necessary to provide for the entrance to the site.

- (c) The carriageway of the public road shall not be raised, lowered or otherwise altered at its junction with the access driveway to the proposed dwelling.
- (d) The gradient of the access driveway shall not exceed 3% for the first seven metres adjacent to the carriageway of the public road.
- (e) The final route of the access driveway shall be agreed in writing with the Planning Authority prior to the commencement of works to the dwelling.

Reason: In the interest of visual amenity and traffic safety.

- 4. Details of the materials, colours and textures of all the external finishes to the proposed house shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development

Reason: In the interest of visual amenity.

- 5. All public service cables for the development, including electrical and telecommunications cables, shall be located underground throughout the site.

Reason: In the interest of visual amenity.

- 6. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works and services.

Reason: In the interest of public health.

- 7. (a) All surface water generated within the site boundaries shall be collected and disposed of within the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road.
- (b) The access driveway to the proposed development shall be provided with adequately sized pipes or ducts to ensure that no interference will be caused to existing roadside drainage. Surface water shall be discharged to soakways

and/or sustainable urban drainage methods within the site to be agreed in writing with the Planning Authority.

Reason: In the interest of traffic safety and to prevent pollution of watercourses.

8. (a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority, and in accordance with the requirements of the document "Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) by the Environmental Protection Agency in 2021. No system other than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

(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.

(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.

(d) 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 polishing filter is constructed in accordance with the standards set out in the EPA document.

Reason: In the interest of public health.

9. The site shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.

Reason: In the interest of residential and visual amenity.

10. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000, as amended. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Adrian Ormsby
Planning Inspector

02nd of February 2023