



An
Bord
Pleanála

Inspector's Report ABP-318922-24

Development	House, garage & wastewater treatment plant
Location	Lisdoonvarna, County Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	2360454
Applicant(s)	Mark Howley
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Mark Howley
Date of Site Inspection	8 th May, 2024
Inspector	Kevin Moore

1.0 Site Location and Description

- 1.1. The site of the proposed development is located just under a kilometre east of the town of Lisdoonvarna in north County Clare. It comprises elevated land on the west side of a local road a short distance south of its junction with Regional Road No. R476. It forms part of a larger field and lies immediately north of the applicant's parents' house. The land falls in a south-south-east / north-north-west direction away from the public road. An overhead ESB line traverses the site in a north/south direction. Other development in the vicinity includes one-off housing opposite the site and to the south. There is a National Monument on the opposite side of the local road and immediately south of a house and garage – CL008-084: an enclosure.

2.0 Proposed Development

- 2.1. The proposed development would comprise the construction of a house and garage, the installation of a wastewater treatment plant, and the construction of a new entrance onto the public road. The house would be a three bedroom, single-storey unit. It would have a stated gross floor area of 245 square metres. It would be served by the new wastewater treatment plant and a public water supply. The applicant is the stated owner of the 0.32 hectare site.
- 2.2. Documentation submitted with the application included a Planning Statement, a site suitability assessment report, and letters referring to the applicant's attendance at two local schools. I note from the appeal submission that it is not proposed to advance the proposed garage.

3.0 Planning Authority Decision

3.1. Decision

On 20th December, 2023, Clare County Council decided to refuse permission for the proposed development for one reason relating to the planning authority not being satisfied that the site can adequately treat and assimilate wastewater generated by the proposed development, conflicting with Development Plan provisions, and not being satisfied that it would not likely have a significant effect on Ballyteige SAC.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planner noted relevant provisions of Clare County Development Plan and reports received. The report of the Environment Section was repeated. Therein, it was submitted that the site characterisation report was not carried out in accordance with the requirements of the 2021 EPA Code of Practice. The principle of the development was seen to be unacceptable on the grounds of public health. There was no objection to the proposal on the grounds of rural settlement location policy or traffic safety. The proposed house was regarded as being excessively long and it was considered that it would benefit from a reduction in floor area. Noting that the Zone of Notification associated with a National Monument opposite the site overlaps a portion of the site, it was submitted that there was no requirement for archaeological impact assessment as no report had been received from DAU (Archaeology Division). It was acknowledged that archaeological monitoring may be required in the event of a grant of permission. It was stated that, having regard to the nature and scale of the proposed development and the proximity of the site to Ballyteige SAC (319m to the north), appropriate assessment issues may arise and the planning authority could not conclude at this stage of assessment that the proposed development would not be likely to have a significant effect on a European site. A refusal of permission for one reason was recommended. An appropriate assessment screening report was attached with the Planner's report.

3.2.2. Other Technical Reports

In a first report dated 11/12/23, the Environment Section Scientist concluded that testing was required to be carried out in the presence of the Council's environmental staff, including reopening of the trial hole and carrying out modified T-tests. In a second report dated 19/12/23, the Environment Section Scientist concluded that percolation testing was not carried out in compliance with 2021 EPA Code of Practice for DWWTS, with the testing methodology likely resulting in inaccurate percolation test values where the soil polishing filter is proposed to be located. Furthermore, it was submitted that it was not demonstrated that there is a minimum depth of 500mm of suitable soil below ground throughout the proposed soil polishing filter area. It was also concluded that the proposal to remove impermeable soil from

ground level down to 0.9m did not comply with 2021 EPA Code of Practice for DWWTS as it was not accurately demonstrated that the soil polishing filter area will be unable to assimilate wastewater loading and there may be a high risk of ponding. A refusal of permission was recommended.

The Municipal District Engineer stated that the office had no observations to make in relation to the application.

3.3. Prescribed Bodies

Irish Water set out its conditions for connection to the public water supply.

4.0 Planning History

I have no record of any planning application or appeal relating to the site.

5.0 Policy Context

5.1. Clare County Development Plan 2023-2029

Single Houses in the Countryside

The Council will ensure that development of the open countryside takes place in a manner that is compatible with the policy objectives of the NPF and the RSES, whilst ensuring the protection of key economic, environmental, biodiversity and cultural / heritage assets such as the road network, water quality and important landscapes.

New Single Houses in the Countryside outside of the 'Areas of Special Control'

CDP 4.15

It is an objective of Clare County Council:

Within the parts of the countryside outside of the 'Areas of Special Control' that is:

- Outside of the Areas Under Strong Urban Influence;
- Outside of Heritage Landscapes; and
- Not accessed and/or abutting a designated Scenic Route

To permit an application for a single house by persons who seek a dwelling as their principal private residence and will therefore contribute to the social and economic wellbeing of the area, subject to high quality siting and design and compliance with all relevant environmental legislation. Any application for a rural house for permanent occupancy must be made in the name of the person who will occupy the house in the first instance. The assessment of an application for a rural house in the countryside Outside of the 'Areas of Special Control' 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.

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 CDP11.14 as set out in Chapter 11.

Water Resources

CDP 11.27

It is an objective of the Clare County Council:

- a) To support the protection and improvement of the quality of drinking water sources in line with the requirements of the Water Framework Directive;
- b) To ensure that developments that would have an unacceptable impact on water resources, including surface water and groundwater quality and quantity, designated source protection areas, estuarine, coastal transitional waters, river corridors and associated wetlands will not be permitted; ...
- e) To protect groundwater resources, in accordance with statutory requirements and specific measures as set out in the National River Basin Management Plan 2022-2027; ...
- g) To consider proposals for development which infringe on a river boundary, or an associated habitat, including their connection by groundwater, only where it can be clearly demonstrated that:
 - The character of the area will be conserved;

- An acceptable physical riparian zone will be maintained; ...

CDP 11.32

It is an objective of Clare County Council: ...

g) To permit the development of single dwelling houses in unserved areas only where it is demonstrated to the satisfaction of the Planning Authority that the proposed wastewater treatment system is in accordance with the Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), EPA (2021); ...

Biodiversity and Natural Heritage

European Sites

CDP15.3

It is an objective of Clare County Council:

- a) To afford the highest level of protection to all designated European sites in accordance with the relevant Directives and legislation on such matters;
- b) To require all planning applications for development that may have (or cannot rule out) likely significant effects on European Sites in view of the site's Conservation Objectives, either in isolation or in combination with other plans or projects, to submit a Natura Impact Statement in accordance with the requirements of the EU Habitats Directive and the Planning and Development Act, 2000 (as amended); and
- c) To recognise and afford appropriate protection to any new or modified SPAs or SACs that are identified during the lifetime of this Development Plan through the planning application process bearing in mind proposals for development outside of a European site may also have an indirect effect.

Appropriate Assessment

CDP15.4

It is an objective of Clare County Council:

- a) To implement Article 6(3) and where necessary 6(4) of the Habitats Directive and to ensure that Appropriate Assessment is carried out in relation to works, plans and projects likely to impact on European sites (SACs and SPAs), whether directly or indirectly or in combination with any other plan(s) or project(s); and
- b) To have regard to Appropriate Assessment of Plans and Projects in Ireland – Guidelines for Planning Authorities 2009 or any updated version.

Archaeological Heritage

CDP16.8

It is an objective of Clare County Council:

- a) To safeguard sites, features and objects of archaeological interest generally;
- b) To secure the preservation (i.e. preservation in situ or in exceptional cases preservation by record) of all archaeological monuments included in the Record of Monuments and Places as established under Section 12 of the National Monuments (Amendment) Act, 1994, and of sites, features and objects of archaeological and historical interest generally;
- c) In securing such preservation, to have regard to the advice and recommendations of the Department of the Culture, Heritage and the Gaeltacht;
- d) To have regard to the government publication Framework and Principles for the Protection of the Archaeological Heritage 1999 in relation to protecting sites, features and objects of archaeological interest; and
- e) To advocate for greater financial assistance for the maintenance and improvement of features of archaeological interests in County Clare.

5.2. EIA Screening

Having regard to the nature, scale and location of the proposed development, there is no real likelihood of significant effects on the environment. The submission of an EIAR is not required.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of the appeal may be synthesised as follows:

Development Plan

- Wastewater will be fully treated at the base of the peat modules and then, after passing through 900mm of suitable media for polishing, it can return to groundwater or be discharged to surface waters under licence. This fully complies with Objective 11.27 of the County Development Plan.
- Regarding Objective 15.3, the highest level of protection to European sites is complied with in the application. The AA screening carried out in an adjacent application (15/382) identifies the only potential impact on the qualifying interest of the SAC being the lowering of the water table from the proposed potable well. This application proposes a connection to the public water supply. The application does not contravene any of the stated objectives.

Environment Section Input

Report 1 (11th December)

- The observation that the ground had signs of poor soil permeability with water visible at ground level is consistent with the agent's assessment. Given the rainfall in the previous days, this was expected.
- The EPA Code of Practice was updated in 2021 and Appendix D introduced the time concept of pre-soaking test holes between 4 and 24 hours in advance of testing. There is no scientific explanation for this. Previous versions of the CoP do not specify this.
- The assessment form simply states at 3.3.(a) step 2 that "each hole should be pre-soaked twice before the test is carried out." The agent complied with that.
- Reference was made in the Environmental report to the modified step 5 testing running into the second day. There is nothing in the CoP to preclude this. The agent had been 12 hours on the site when he adjourned to the next

morning. Resuming the step 5 test the following day had no impact on the outcome.

- Reference is made in the Environmental report to testing being required to be carried out in the presence of Clare County Council environmental staff and testing including re-opening of trial holes and carrying out modified T-tests to demonstrate assimilative capacity of the site. Notwithstanding this being ultra vires the PA and in contravention of s.28 Guidelines, this needs to be seen in the context of site assessments carried out for three adjacent applications where T-values of 41, 33 and 18 were attained. Compared with the T-value attained for the appeal site, these are remarkable considering the GSI lists the same Teagasc soils and subsoils for all four sites.

Report 2 (19th December)

- Regarding the questions of the soil/subsoil accommodating the wastewater volumes and treating the wastewater sufficiently, and minimum separation distances being met, if the soil/subsoil can “accommodate” wastewater, it is then only a function of the size of the infiltration area based on the volume arising. The soil/subsoil does not treat the wastewater in this proposal. A polishing filter simply polishes treated effluent. The peat modules are EN certified to treat the wastewater sufficiently. All separation distances can be facilitated on the site.
- Regarding compliance with Part H of the Building Regulations and thereby the EPA CoP 2021, the only reference in the most recent version of TGD Part H is to the EPA Code of Practice 2009. Furthermore, the planning authority is precluded from straying outside the bounds of planning legislation by virtue of s.34(2)(a).
- The Environment Report makes three recommendations – (i) testing was not carried out in accordance with the CoP, (ii) it was not demonstrated that there is a minimum depth of 500mm of suitable soil below the ground throughout the proposed polishing filter area, and (iii) the proposal to remove impermeable soil from ground level down to 0.9m does not comply with the 2021 EPA CoP for DWE_WTS as it has not accurately demonstrated that the

soil polishing filter area will be unable to assimilate wastewater loading and there may be a high risk of ponding. In response, it is submitted:

- The first recommendation is refuted. The PA is being pedantic about pre-soaking test holes in a set period and the completion of step 5 on the following morning. The agent is entitled to use his training and skills to assess the site with or without reference to a non-statutory guidance document.
- Nowhere in the CoP is it stated that it is necessary to demonstrate that there is a minimum depth of 500mm of suitable soil below the ground throughout the proposed polishing filter area. The only statutory requirement in this application for on-site wastewater treatment is as prescribed in Article 22(2)(c) of the Planning and Development Regulations. This requirement is more than satisfied.
- Regarding the third recommendation, there is nothing in the CoP which precludes site improvement where required. In fact, it recognises site improvement as legitimate.

Site Suitability Assessment

- There are no watercourses on the land.
- It was envisaged that P/T values would likely be in the higher range.
- The soil is a heavy soil.
- The likely groundwater flow direction is south-west based on topography and flow direction of defined surface water streams and rivers in the area.
- Reference is made to the assessment on a site in the vicinity relating to Ref. 15/382 and how that was addressed.
- The on-site assessment confirmed that all separation distances are achievable and that there are no surface water connections to the SAC.
- The Trial Hole had two distinct horizons. P-test holes were excavated at surface level to discharge at 400mm BGL and T-test holes were excavated to discharge at 1100mm BGL. The water table remained at 1.9m BGL. The A-

horizon was classified as clay and did not have the hydraulic capacity to dispose of effluent. The B-horizon appeared to have movement of groundwater with an estimated T-value of 60. The T_{100} value was 230 and the agent proceeded to use step 5 modified method to calculate T-values. The process is described. The result verified the classification of the B-horizon as Clay/Silt. The T value was slightly higher than estimated but within an acceptable range for discharge of treated effluent to groundwater.

Wastewater Design Proposal

- The assessment results informed the design of the proposed system. The T-value excluded the use of a septic tank and percolation area. The water table level was also a consideration.
- The choice of a treatment system is best informed with long term maintenance in mind. The agent's preference is to recommend the use of a durable EN certified pre-cast concrete septic tank for primary treatment followed by intermittent dosing on peat filter modules for treatment prior to discharge to ground. Given the available space, it was proposed to separate the two peat modules with direct discharge to independent polishing filters. This further mitigated the factor of safety by doubling the infiltration area and halving the hydraulic loading on each polishing filter. It was indicated that the horizon A layer of 0.9m was to be removed and replaced with imported soil with a T-value in the range of 25-45, which was to be placed and re-tested as suggested in the CoP. The agent submits that he can confidently stand over this proposal.

The Board is requested to reassess the application and the clarifications included in the appeal and grant permission.

6.2. Planning Authority Response

The planning authority's response may be summarised as follows:

- As set out in its reports, the planning authority did not consider that the site could assimilate and treat the wastewater adequately given that the imported soil will be surrounded by unsuitable native soil with poor percolation values and will not be able to accommodate wastewater volumes on site giving rise to hydraulic issues on site. It was concluded that the proposed development would cause a risk to public health and the environment and would be contrary to objectives in respect of wastewater management.
- It is noted that the appellant states that there are no hydraulic connections between the site and Ballyteige SAC. While this may be the case, it is noted that the topography of the area where the site is higher than the SAC and surface water may flow off site northwards towards Ballyteige. It may also be possible that there are groundwater connections between the site and the SAC. Having regard to the nature and scale of the proposed development and the proximity to the SAC, the impact on the SAC is of concern.
- The current conservation status of the SAC is described as 'bad' and the conservation objective is to maintain or restore the favourable conservation condition of the Annex I habitat for which the SAC has been selected. Given that conditions underpinning site integrity include water quality, it would be imperative that it is demonstrated that the site is suitable for the treatment and disposal of wastewater. The planning authority is not satisfied that this has been demonstrated.

The Board is asked to have regard to the concerns raised.

The response includes a submission from the Environment Section. This may be synthesised as follows:

- The Environment Section made its decision based on the concern about the hydraulic capacity of the soil on the site where it is proposed to locate the soil polishing filter.
- In the proposal, the zone of soil from ground level (point of infiltration of treated wastewater after peat modules) to 900mm is where effluent after secondary treatment would enter the soil zone. The Site Characterisation Report stated that there was no hydraulic capacity from 0 to 900mm. It was proposed to remove the existing soil from ground level to 900mm in 200m²

and replace it with suitable soil at the locations where it is proposed to locate the soil polishing filter area. The Environment Section is concerned with this as the imported soil would be surrounded by unsuitable soil (with poor percolation value and hydraulic assimilative capacity) and will not be able to accommodate wastewater volumes, leading to a hydraulic issue on the site and causing a risk to public health and water quality.

- The aim of the Environment Section is to assess the Site Characterisation Report to determine if it complies with the requirements of the current 2021 EPA Code of Practice for Domestic Wastewater Treatment Systems.
 - The 2000 CoP refers to pre-soak 24 hours before (p. 63 Appendix A). The 2009 CoP refers to soaking 4-24h before start of percolation test (p. 73 Annex C). The aim of the percolation testing and modified percolation testing is to aid in order to design an adequately sized soil infiltration area in compliance with Table 10.1 of the 2021 CoP.
 - Reference is made to Figure 1 on P. 18 of the 2021 CoP relating to the three factors requiring to be considered (the hydraulic, attenuation, and separation distance issues). Table 6.3 sets out unsaturated subsoil depths that are required on the portion of the site where the treatment system will be located.
 - P. 7 of the 2021 CoP refers to Building Regulations and requirements for 500mm suitable sub-soil.

It is concluded that the Environment Section's concern for the proposal is that the imported soil will be surrounded by unsuitable soil with poor percolation value and will not be able to accommodate wastewater volumes, leading to a hydraulic issue and causing a risk to public health and water quality.

7.0 **Assessment**

7.1. Introduction

I consider the principal planning issues relating to the proposed development are effluent disposal, impact on European sites, and rural housing need.

7.2. Effluent Disposal

I first observe that it is accepted by all parties that the soil on the site is a heavy soil, that it has poor permeability, and that water has been visible at ground level. P/T values were expected to be in the higher range and they are. The Trial Hole that was dug had two distinct horizons. The A-horizon was classified as clay and did not have the hydraulic capacity to dispose of effluent. P-testing was abandoned. The B-horizon was classified as Clay/Silt and the T-value was higher than was anticipated by the applicant's agent. A subsurface percolation value of 69.67 was attained.

From the initial observations and testing, it can reasonably be determined that the soil on this site has poor drainage characteristics. This has necessitated a proposed highly engineered response to seek to address the evident drainage deficiencies of the natural soils on the site. This includes the proposed removal of impermeable clay down to a depth of 0.9 metres and to import soil with a suitable percolation value to produce a soil polishing filter. With such a response comes the necessity for a high level of ongoing maintenance in the event the heavily engineered site works are seen to be acceptable.

I acknowledge that the planning authority's concern relates to it not being satisfied that it has been demonstrated that the soil permeability on the site can adequately treat and assimilate the wastewater generated. This is somewhat clarified in the response to the appeal by the Environment Section Scientist. The removal of the existing soil from ground level to 900mm and its replacement with suitable soil where it is proposed to locate the soil polishing filter area is of concern because the

imported soil would be surrounded by unsuitable soil with a poor percolation value and hydraulic assimilative capacity. It is seen that this would not be able to accommodate wastewater volumes. This would lead to a hydraulic issue on the site and would likely cause a risk to public health and water quality. The appellant has submitted that, if the soil/subsoil can “accommodate” wastewater, it is then only a function of the size of the infiltration area based on the volume arising. It is stated that the soil/subsoil does not treat the wastewater in this proposal. A polishing filter simply polishes treated effluent. It is submitted that the proposed peat modules would be EN certified to treat the wastewater sufficiently.

Arising from each of the submissions, I must impress upon the Board the important observation that after treatment there remains an ‘effluent’ to be discharged. In my opinion, the Environment Section Scientist is correct to note that the imported soil as part of the engineered treatment works would be surrounded by unsuitable soil with poor percolation values and hydraulic assimilative capacity. Therefore, the concern about the impact on public health and water quality is justified. There remains a concern about the assimilative capacity where imported soil would be surrounded by unsuitable soil.

Regarding compliance with the EPA Code of Practice, it appears that much of the focus of the appeal appears to be on this. The principal finding that the site is not suitable for the safe disposal of wastewater arising from the proposed development is acknowledged from the poor drainage characteristics of the soil on the site and from the test results attained. For clarity on how testing was conducted and the concerns raised by the Environment Section on this, I note the following:

- The pre-soaking of test holes was carried out on 16/09/22 and testing was started on 19/09/22. In accordance with the Guidance, test holes should have been pre-soaked twice from 4 to 24 hours before the start of the percolation test.

- The modified T-test was started on the 19/10/22 and was completed on 20/10/22 when percolation tests are required to be completed from beginning to end without any breaks or gaps, thus potentially undermining the validity of the values attained.

It is, therefore, apparent that testing was not carried out in accordance with the EPA Code of Practice. I submit that the Environment Section Scientist was not being in any manner pedantic. The guidelines are there to be followed and are to be consistently applied so that one can rely on the information provided. The methodology of testing is purposeful and the testing procedures require an orderly and timely approach. Where this is not followed it is reasonable to query the outcomes.

Notwithstanding the above, I must return to the observation that this site is unsuitable for the safe disposal of wastewater that would be generated by the proposed development premised upon the inadequacy of the hydraulic assimilative capacity of the soils on this site to which final effluent would be discharged.

7.3. Impact on European Sites

Ballyteige (Clare) Special Area of Conservation (Site Code: 000994) is located just over 300 metres to the north of the site of the proposed development. Its Qualifying Interest is *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinia caeruleae*). The Conservation Objective is to restore the favourable conservation condition of *Molinia* meadows on calcareous, peaty or clayey-silt-laden soils (*Molinia caeruleae*). The SAC is state-owned and it is managed as a nature reserve.

I note Objective CDP 15.3 of Clare County Development Plan. Under this objective, the highest level of protection is to be afforded to all designated European sites.

Also, all planning applications for development that may have likely significant effects on European sites are required to submit a Natura Impact Statement. Under Objective CDP 15.4, it is a requirement to ensure that Appropriate Assessment is carried out in relation to works, plans and projects likely to impact on European sites.

The Board will note that there are wastewater drainage concerns relating to the proposed development. The land slopes in a north-north westerly direction at this location. Based on the details provided in the planning application and the appeal, there is no understanding of potential connectivity/pathways between the site of the proposed development and the European site. There may be potential connectivity by way of surface water or groundwater flows. In the event of potential pathways to the European site, it may reasonably be inferred that there is potential for significant adverse effects on the Qualifying Interest of the site, affecting the wet meadow and heath for which the site has been designated.

The appellant has not submitted any report in the form of screening for appropriate assessment nor has any Natura Impact Statement been prepared to inform the planning authority in making a determination on the likely significant effect on the nearby SAC. The appellant has submitted that there are no hydraulic connections between the site and Ballyteige SAC. In light of the topography of this location and the lack of information on potential pathways, this requires qualification where there is a high degree of uncertainty relating to those potential pathways. I also note that the appellant has submitted that an AA screening carried out in an adjacent application (15/382) identifies the only potential impact on the qualifying interest of the SAC being the lowering of the water table for a proposed potable well. I submit that there is a necessity for reliance on site-specific assessment and that it is not reasonable to determine potential effects premised upon inferences arising from considerations elsewhere.

I am satisfied to conclude that there is distinct uncertainty relating to the likely potential effects of the proposed development on Ballyteige SAC and that this application would not likely meet with the requirements of Objective CDP 15.3 of Clare County Development Plan.

7.4. Rural Housing Need

From the Planning Statement submitted with the planning application and from the appeal submission, it is noted that the applicant is a civil engineering contractor who works in Australia and who plans to return home in the coming year. It is stated that he was born and reared in this location up to the time he moved to Australia to work. It is submitted that it is his intention to work as a self-employed civil engineering contractor in North Clare, operating from a home office. It is further stated that he comes from a farming background and that he intends to combine farming with his full-time self-employment. From the planning application form, it is noted that his total landholding is 2.59 hectares (approx. 6.3 acres). It is also noted that he attended schools in Lisdoonvarna.

I note the provisions of Clare County Development Plan 2023-2029 as they relate to single houses in the countryside. Having regard to my considerations on effluent disposal and the impact on European sites, it is particularly noted that the provisions of the Plan state:

“The Council will ensure that development of the open countryside takes place in a manner that is compatible with the policy objectives of the NPF and the RSES, whilst ensuring the protection of key economic, environmental, biodiversity and cultural / heritage assets such as the road network, water quality and important landscapes.”

I acknowledge that the site of the proposed development is not located within a designated Area of Special Control which includes designated Areas under Strong

Urban Influence. For areas such as the location of the site the subject of the appeal the applicable objective is CDP 4.15 which states that it is an objective:

“To permit an application for a single house by persons who seek a dwelling as their principal private residence and will therefore contribute to the social and economic wellbeing of the area, subject to high quality siting and design and compliance with all relevant environmental legislation. Any application for a rural house for permanent occupancy must be made in the name of the person who will occupy the house in the first instance. The assessment of an application for a rural house in the countryside Outside of the ‘Areas of Special Control’ 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.”

I note again for the Board the environmental considerations offered above on wastewater disposal and on the likely potential significant effects on a European site.

Another important observation to be made in this instance is the proximity of the site of the proposed development to the serviced settlement of Lisdoonvarna. Having regard to the ‘viability’ of this town, as is required by the objective, the proposal presents as being contrary to securing its viability by facilitating residential development away from its serviced lands and contributing to the build-up of houses in this unserviced rural location. Such development is haphazard and the continued intensification of one-off houses in such locations puts significant pressure on the demands for public services remote from the nearby settlement, such as increased demands for public water supply, possible collection and treatment of wastewater, the provision of lighting and footpaths along the public road, etc. Such development also increases traffic safety concerns with additional individual entrances along the local road network where the maximum speed limit applies and it also poses significant public health concerns with an increased spread of one-off houses served by individual effluent treatment systems. Ultimately, this form of development undermines the focus of sustainable residential development being located within the serviced town of Lisdoonvarna. Such development is at a public cost which is not sustainable. It is apparent that the residential needs of the applicant could reasonably be met within the serviced settlement of nearby Lisdoonvarna, which

would not undermine his ability to meet his full-time employment objective nor the part-time farming of the 2.59 hectares of land where the site is located.

Finally, I note the scale and design of the proposed development and its siting on the crest of a hill. The proposed house would be highly prominent and obtrusive, being visible over a wide area, including from the wider public road network. The proposed house would have a very large footprint and a very large floor area of 245 square metres. Due to its siting, it would be particularly difficult to adequately screen the building to enable it to be in some way integrated with the landscape in which it would be set.

I consider that the proposed development would conflict with Objective CDP 4.15 and could not reasonably be seen to be in accordance with the proper planning and sustainable development of this area.

8.0 Recommendation

- 8.1. I recommend that permission is refused in accordance with the following reasons and considerations.

9.0 Reasons and Considerations

1. Having regard to the poor drainage characteristics of the soil on the site, the Board is not satisfied on the basis of the submissions made in connection with the planning application and the appeal, that the site can be drained satisfactorily by means of a septic tank, notwithstanding the proposed use of a proprietary wastewater treatment system. The proposed development would, therefore, be prejudicial to public health.
2. On the basis of the information on file, the Board is not satisfied that the proposed development, either individually or in combination with other projects, would not be likely to have a significant effect on the European Site Ballyteige (Clare) Special Area of Conservation (Site Code: 000994). In such

circumstances, the Board is precluded from granting permission for the proposed development.

3. The site of the proposed development is located within an area outside of designated Areas of Special Control as set out in Clare County Development Plan 2023-2029. It is the objective of Clare County Council in this area to permit an application for a single house by persons who seek a dwelling as their principal private residence and who will therefore contribute to the social and economic wellbeing of the area, subject to high quality siting and design and compliance with all relevant environmental legislation. The assessment of an application for a rural house in the countryside Outside of the 'Areas of Special Control' is required to have regard to environmental considerations, the viability of smaller towns and rural settlements, siting and design issues and the Clare Rural House Design Guide. (Objective CDPO 4.15).

Having regard to the adverse environmental impacts arising from the poor drainage characteristics of the site, the potential adverse effects on Ballyteige (Clare) Special Area of Conservation, the adverse effect of accommodating development of this nature away from the serviced settlement of Lisdoonvarna thereby affecting its viability, and the highly prominent siting and visual obtrusiveness of the proposed house, it is considered that the proposed development would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure, would conflict with the objective of the planning authority as it relates to single houses in the countryside, and would, therefore, be contrary 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.

Kevin Moore
Senior Planning Inspector

15th May 2024