



An
Bord
Pleanála

Inspector's Report

ABP-320064-24

Development	Retain alterations to house and planning permission to install a new wastewater treatment unit and percolation area, and revised site boundaries along with all associated works.
Location	Clonreddan, Cooraclare, Co Clare.
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	2360513
Applicant(s)	Donal Dillon
Type of Application	Permission/Retention
Planning Authority Decision	Grant subject to conditions
Type of Appeal	Third Party
Appellant(s)	John Dillon
Observer(s)	None
Date of Site Inspection	31 st January 2025
Inspector	Ciara McGuinness

1.0 Site Location and Description

- 1.1. The site is located in the townland of Clonreddan, c. 3km to the northeast of Cooraclare. The site is accessed from the L6117 Local Road and has a stated site area of 0.115ha. There is an existing single storey detached dwelling on the site. The site slopes downward from the local road to the rear (southwest) boundary. The northwestern side of the property is bound by a private road serving a neighbouring dwelling and farm. The boundaries of the site are defined by low timber fencing. The boundary to the rear is approximately 1m from the existing dwelling. The surrounding area is characterised by agricultural farmlands with sporadic one-off housing.

2.0 Proposed Development

- 2.1. Permission is sought to retain minor alterations to the existing dwelling house for changes made to doors and windows on the northeast, southwest and northwest elevations. The applicant also proposes to retain 2 no. ground level windows on the rear (southwest) elevation which provide light to basement storage area.
- 2.2. The applicant is seeking permission to install a new wastewater treatment unit and percolation area to the rear of the dwelling. The existing system which is located to the southeast of the site will be decommissioned. The applicant is also seeking permission for revised site boundaries which will include the land where the new wastewater treatment system is proposed to be located.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to grant permission for the proposed development on 5th June 2024 subject to 3 no. conditions.

Condition No.2 requires that within 3 months of the date of the permission that stock proof fencing be provided along the boundaries of the permitted rear garden.

Condition No. 3 requires that the proposed wastewater treatment system to be installed and maintained in accordance with the details received by the Planning

Authority and the EPA Code of Practice for Domestic Wastewater Treatment Systems.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The Planners Report (dated 31st January 2024) considers that the proposed development will have a negligible impact on the visual amenities of the surrounding area. Following a review of the submitted information, the proposed replacement wastewater system is considered to be acceptable by the Environment Section and there are no other outstanding issues in this regard.

Further Information was recommended on 2 items;

- Submit documentation which demonstrates sufficient legal interest in the subject site.
- Submit a detailed floor plan showing the internal layout in relation to windows and doors to be retained.

In response to the further information, it was stated by the applicant that the site as outlined in red is fully within the applicant's ownership. Folio details have been provided in this regard. While the redline boundary does not match fully the site boundary on the ground, the applicant has sought permission for revised site boundaries within this application. The alterations to the dwelling for which retention permission is sought have been indicated on revised drawings and are considered acceptable. The development is considered to comply with the County Development Plan and EPA Code of Practice. A grant of permission is recommended.

3.2.2. Other Technical Reports

West Clare Municipal District – No observations.

Environment – The site suitability and DWWTS proposal complies with EPA 2021 Domestic Waste Water Treatments Code of Practice.

3.3. Prescribed Bodies

None.

3.4. Third Party Observations

A third-party submission from John Dillon was received. The issues raised generally reflect the grounds of appeal and relate to the issue of landownership.

4.0 Planning History

None known.

5.0 Policy Context

5.1. Development Plan

The site is situated in a settled landscape and in a rural area under strong urban influence as identified on Map C (Landscape Designations) and Map H6 (Areas of Special Control) of the County Development Plan.

Objective CDP11.32(g) states it is an objective of the Council to permit the development of single dwelling houses in unserviced 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).

Appendix 1 of the County Development Plan deals with Development Management Guidelines and Section A1.4.1 deals with Rural Residential Development.

5.2. Natural Heritage Designations

None of relevance.

5.3. EIA Screening

The proposed development is not a class for the purposes of EIA as per the classes of development set out in Schedule 5 of the Planning and Development Regulations 2001, as amended. No mandatory requirement for EIA therefore arises and there is also no requirement for a screening determination. Refer to Form 1 in Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The grounds of appeal can be summarised as follows;

- The land where the septic tank is proposed is in the possession of the appellant.
- An area to the rear of the applicant's house was agreed upon to accommodate the septic tank, however the submitted plans show the septic tank outside of the agreed area.
- The percolation test was conducted in the wrong area without permission from the appellant. The applicant does not have permission to cross the appellants property to install a new septic tank.
- The appellant contends that the septic tank in place is working fine. The site characterisation report does not provide proof that the existing septic tank does not conform to EPA standards. No details have been provided on how the decommissioning of the existing septic tank would be carried out and completed.
- The applicant is unsure of their site boundary. Two separate site boundaries are shown by the applicant. The lawn on the eastern side of the house has been left out of the site boundary.
- In relation to Condition no. 2 attached to the grant of permission, no fencing can be erected without agreement from both parties.

6.2. Applicant Response

None.

6.3. Planning Authority Response

The Planning Authority response considers that the issues outlined in the appeal have been considered and assessed. Having regard to the rural nature of the site, the intended use of the existing/proposed development, the relevant Section 28

Guidelines and the policies of the current County Development Plan 2023-2029 and the pattern of development in the area, it is respectfully requested that An Bord Pleanála upholds the grant of permission.

6.4. Observations

None.

7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including the submissions received in relation to the appeal, and inspected the site, and having regard to relevant local/regional/national policies and guidance, I consider that the main issues in this appeal are as follows;

- Elements for Retention
- Wastewater
- Boundaries/ Landownership

7.2. Elements for Retention

7.2.1. The proposed works relate to the retention of alterations to the dwelling and along with permission to install a new wastewater treatment unit and for revised site boundaries. I would note that the retention of alterations to the dwelling are minor, relating to the positioning of doors and windows, and will have no impact on the visual amenity of the area. No issues were raised by the PA or the appellant in relation to the retention works. I have no objection to this element for retention.

7.3. Wastewater

7.3.1. The appellant has questioned the need for a replacement wastewater treatment system. The site characterisation report notes that the existing septic tank is approximately 40 years old and does not comply with the EPA Code of Practice (CoP). It is proposed to de-sludge, decommission and remove the existing septic tank, with the proposed replacement comprising a secondary treatment system and soil polishing filter. I am satisfied based on the information submitted that a new system is required in the interest of public health.

- 7.3.2. The soil type at this location is brown earth podzolics. The site is classified as having high vulnerability with a locally important aquifer. This gives a ground water protection response of R1. Accordingly, I note the suitability of the site for a treatment system subject to normal good practice. The trial hole depth referenced in the Site Characterisation Report is 2m. Bedrock was not encountered. The soil conditions found in the trial hole are described as comprising silt/clay with pebbles and raspy silt and as having a brown colour. Percolation test holes were dug and pre-soaked. A T value/sub-surface value of 32.00 was recorded. In accordance with the EPA CoP 2021 (Table 6.4) the applicant is proposing a secondary treatment system and a soil polishing filter. I note that the proposed system meets the required minimum separation distances from features as set out in Table 6.2 of the EPA CoP 2021.
- 7.3.3. I note the comments of the Environment Section as outlined in the Planner's Report that there is adequate suitable sub-soil on the site and that the site suitability and DWWTS proposal complies with EPA 2021 Domestic Waste Water Treatments Code of Practice. I further note that the appellant has not specifically raised the issue of public health or the design of wastewater drainage in their appeal. The appellants concerns relate primarily to landownership of the area in question. This is dealt with separately below in Section 7.4. Having regard to the information submitted including the site characterisation report and the proposal to install secondary treatment system and percolation area, I would concur with the assessment of the planning authority that site is suitable for the proposed on-site effluent treatment system subject to the system being constructed and maintained in accordance with the details submitted.
- 7.3.4. It is considered that having regard to the information submitted with the application regarding the characteristics of the site and the design of the proposed drainage system, and to my observations on site, which are generally in accordance with those described in the applicant's Engineers report, the proposed drainage proposals would be appropriate.

7.4. Boundaries/ Land Ownership

- 7.4.1. I note the main issue raised in the grounds of appeal relate to the legal interest in the lands where the proposed wastewater treatment system is to be located. In relation

to boundaries, the appellant also contends that the applicant is unclear of their site boundaries. I do not consider this to be the case. The applicant has submitted a revised site layout plan clearly showing the current planning application outlined in red and the site ownership boundary outlined in blue. The site ownership boundaries correspond to the submitted land registry folios details (CE4815F and CE18961F). In this regard and in terms of the legal interest, I am satisfied that the applicants have provided sufficient evidence of their legal intent to make an application. Any further legal dispute is considered a Civil matter and are outside the scope of the planning appeal. In any case, this is a matter to be resolved between the parties, having regard to the provisions of s.34(13) of the 2000 Planning and Development Act.

8.0 AA Screening

- 8.1.1. I have considered the development in light of the requirements S177U of the Planning and Development Act 2000 as amended.
- 8.1.2. The subject site is not located within or adjacent to any European sites. The nearest Europeans sites are in excess of 8km from the site.
- 8.1.3. The proposed development relates to minor works comprising the retention of alterations to a house and the installation of a new wastewater treatment unit and percolation area, along with revised site boundaries.
- 8.1.4. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because it could not have any appreciable effect on a European Site. The reason for this conclusion is as follows:
- The minor nature of the works
 - The distance from European sites and lack of connections
 - Taking into account screening determination by LPA
- 8.2. I consider that the proposed development would not be likely to have a significant effect individually, or in-combination with other plans and projects, on a European Site and appropriate assessment is therefore not required.

9.0 Recommendation

I recommend that permission is granted for the following reasons and considerations.

10.0 Reasons and Considerations

Having regard to the provisions of the Clare County Development Plan 2023-2029, the established residential use of the site, the pattern of development in the vicinity and the nature and scale of the development, it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the amenities of the area or of property in the vicinity and would be an acceptable form of development at this location. 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, as amended by the further plans and particulars received by the planning authority on the 17th day of May 2025, 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) A scheme indicating boundary treatments shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This boundary treatment scheme shall provide a screen along the revised boundaries, consisting predominantly of trees, shrubs and hedging of indigenous species, and shall be protected from grazing animals

by stock-proof fencing. The planting shall be carried out in accordance with the agreed scheme and shall be completed within the first planting season following the commencement of construction works.

(b) Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

Reason: In order to screen the development, in the interest of visual amenity.

3. (a) The septic tank/wastewater treatment system hereby permitted shall be installed in accordance with the recommendations included within the site characterisation report submitted with this application on 29th November 2023 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10) ” – Environmental Protection Agency, 2021.

(b) Treated effluent from the septic tank/ wastewater treatment system shall be discharged to a percolation area/ polishing filter which shall be provided in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10)” – Environmental Protection Agency, 2021.

(c) Within three months of the first occupation of the dwelling, the developer shall submit a report to the planning authority from a suitably qualified person (with professional indemnity insurance) certifying that the septic tank/ wastewater treatment system and associated works is constructed and operating in accordance with the standards set out in the Environmental Protection Agency document referred to above.

Reason: In the interest of public health and to prevent water pollution

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.

Ciara McGuinness
Planning Inspector

6th March 2025

Form 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-320064-24		
Proposed Development Summary	Retain alterations to house and planning permission to install a new wastewater treatment unit and percolation area, and revised site boundaries along with all associated works.		
Development Address	Clonreddan, Cooraclare, County Clare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes ✓	Tick if relevant and proceed to Q2.
		No	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes			Proceed to Q3.
No	✓		No further action required
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required

No			Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes			Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	✓	Pre-screening determination conclusion remains as above (Q1 to Q4)
Yes		Screening Determination required

Inspector: _____ **Date:** _____