



An  
Coimisiún  
Pleanála

## Inspector's Report

**PL-500936-CE-26**

<b>Development</b>	House, garage with loft, treatment system and ancillary site works.
<b>Location</b>	Barefield, Ennis, Co. Clare.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	25382
<b>Applicant(s)</b>	Ann Marie Hassett
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Grant Permission + Conditions
<b>Type of Appeal</b>	Third Party Normal Planning Appeal
<b>Appellant(s)</b>	Padraig O'Grady
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	21 <sup>st</sup> May 2026
<b>Inspector</b>	Kathy Tuck

## 1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of c.0.326ha is located in the townland of Barefield, Ennis, Co. Clare. Barefield is situated approximately 6km to the north-east of Ennis.
- 1.2. The appeal site is rectangular in form and situated to the rear of a two-storey apartment building and car park which serves a café and public house. Lands situated to the south, east and west comprise of undeveloped lands which appears to be in agricultural use.

## 2.0 Proposed Development

- 2.1. This is an application for a single storey dwelling which has a stated area of 259sq.m which is finishes with a pitched roof profile which has a maximum ridge height of 6.1m.
- 2.2. Permission is also sought for a garage which has a stated area of 45sq.m, is finished with a pitched roof profile with a ridge level of 6.4m and is served internally with a loft area.
- 2.3. It is proposed to serve the dwelling with a new waste water treatment plant.

## 3.0 Planning Authority Decision

### 3.1. Decision

The Planning Authority issued a decision to grant planning permission subject to 12 no. conditions on the 9<sup>th</sup> February 2026. The following conditions are of note:

- *Condition no. 2*

Requires the dwelling to be occupied by the applicant and that the applicant remain the sole occupant for a minimum of 7 years. This shall be confirmed in writing within 2 months of occupation and the dwelling shall be for permanent occupation only.

- *Condition 3*

The proposed dwelling shall be amended as follows:

- (a) Dwelling shall be repositioned 4m to the west to maintain a 10m separation distance from the percolation area.

(b) The 1<sup>st</sup> Floor rear window (west elevation) within the garage loft shall be omitted. Drawings shall be submission for the written agreement of the Planning Authority prior to the commencement of the development.

- *Condition no, 4*

The FFL of the dwelling shall be as specified on the Site Layout Plan received on the 8<sup>th</sup> December 2025 and shall not be modified in any way without the prior written consent of the Planning Authority.

- *Condition no. 7*

All mitigation set out in the Archaeological Assessment Report shall be implemented in full.

- *Condition no. 12*

Section 48 Financial Contribution - €6,729.00

### 3.2. **Planning Authority Reports**

#### 3.2.1. Planning Reports

The report of the Planning Officer provides details of the site description, proposed services, planning policy, planning history of the site, details of internal and external consultee reports and provides for an AA and EIA Screening determination.

The assessment concluded that the applicant has demonstrated compliance with the rural housing policy, that the proposal would not negatively impact upon the residential or visual amenities of the area, would be able to achieved the desired sightlines. However, there is a concern over the proximity of the dwelling proposed to the percolation area and the house would therefore need to be slightly relocated on site which can be achieved by condition. As such a recommendation in line with the decision issued by the Planning Authority was made to grant permission.

#### 3.2.2. Other Technical Reports

Environment Section: Notes that information provided demonstrates that there is adequate suitable soil for the construction of the proposed soil infiltration area. It is recommended that permission be granted subject to condition.

### 3.3. **Prescribed Bodies**

Department of Housing, Local Government and Heritage:

Notes that the proposed development site (PDS) is located in proximity to Recorded Monument CL026-079---- (Ringfort - rath). Department has reviewed the Desk-Based Archaeological Assessment Report submitted in support of the planning application acknowledges the findings and concurs with the archaeological impact statement and recommended mitigation measures (archaeological monitoring) contained therein. Recommends that licensed archaeological monitoring, as described below, be included as a condition of any grant of planning permission that may issue.

### 3.4. **Third Party Observations**

The Planning Authority received 1 no. 3<sup>rd</sup> party submission which raises the same concerns as the 3<sup>rd</sup> party appellant to this appeal which includes:

- Negative impact on protected monument.
- No rural need.
- Inappropriate backland development.
- No noise assessment.
- Impact of WWTP
- Additional vehicles no able to utilise this site for Tour De Burren event.

## 4.0 **Planning History**

### 4.1. Appeal Site

PA Ref 25196 Permission sought for a dwelling, wastewater treatment plant and garage. Application withdrawn.

### 4.2. Wider Landholding

PA Ref 24344 Permission sought to construct dwelling house, garage with loft, treatment system and ancillary site works with access via right of way to public road. Application withdrawn.

PA Ref 2164 Permission GRANTED to carry out internal and elevational modifications along with external covered seating area and associated site works and services at Hassett's Public House, Barefield, Co Clare.

## 5.0 Policy Context

### 5.1. National Planning Policy

#### 5.1.1. National Planning Framework (NPF) – First Revision 2025

National Policy Objective 28 states that *'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'*.

#### 5.1.2. Code of Practice Domestic Wastewater Treatment Systems (p.e. ≤ 10) 2021

The Code of Practice (CoP) sets out guidance on the design, operation and maintenance of on-site wastewater treatment systems for single houses.

### 5.2. Ministerial Guidelines

#### 5.2.1. Sustainable Rural Housing, Guidelines for Planning Authorities (2005)

The appeal site is located within a rural area under strong urban pressure. The Guidelines state that these areas 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.

### 5.3. Clare County Development Plan 2023-2029

The subject site is situated within a 'Settled Landscape' and within the 'Area of Special Control' which is identified as an area under 'Strong Urban Influence' as per Map D – Areas of Special Control of the County Development Plan.

The northern boundary of the appeal site is bounded by the 'Euro Velo' Cycle Route.

#### **Other Relevant Sections:**

Chapter 4 – Urban and Rural Settlement Strategy

- Policy CDP 4.14 - It is an objective of Clare County Council:
  - I. In the parts of the countryside within the 'Areas of Special Control' i.e.:
    - Areas Under Strong Urban Influence
    - Heritage Landscapes
    - Sites accessed from or abutting Scenic Routes

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

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

Note: Where the proposed site is accessed from a National route or certain Regional routes, the proposal must, in addition to compliance with this objective, also be subject to compliance with objectives CDP11.13 and 11.14 as set out in Chapter 11.

*Category B – Social Need*

ii. A person who is an intrinsic member of a local rural community who was born within the local rural area, or who is living or has lived permanently in the local rural area for a minimum of 10 years either as one continuous period or cumulatively over a number of periods prior to making the planning application and who has a demonstrable social need to live in the area. This includes returning emigrants seeking a permanent home in their local rural area who meet these criteria. It also includes persons who were born or lived in a rural area for substantial periods of their lives and where that area is now within an urban settlement boundary/zoned land. The applicant must not already own or have owned a house in the surrounding rural area (except in the exceptional circumstances as set out in sub-category iii below) and needs the dwelling for their own permanent occupation.

Chapter 5 – Housing

Chapter 8 – Rural Development and Natural Resources

Chapter 11 – Physical Infrastructure

- CDP 11.32 - It is an objective of Clare County Council:

g) To permit the development of single dwelling houses in un-serviced 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  $\leq$  10), EPA (2021).

#### Chapter 14 – Landscape

- Policy CDP14.2 It is an objective of Clare County Council:

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

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

Developments in these areas will be required to demonstrate:-

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

#### Chapter 15 - Biodiversity, Natural Heritage and Green Infrastructure

#### Chapter 19 - Land Use and Zoning

#### Appendix 1 Development Management Guidelines

#### A1.4.1 Rural Residential Development - Wastewater Treatment Systems

## 5.4. **Natural Heritage Designations**

The appeal site is not situated within or directly abutting any Natura 2000 sites. The appeal site is situated 1.8km to the north-east of the Ballyallia Lake SAC (site code 000014); the Ballyallia Lough SPA(site code 000014); and the Ballyallia Lake Proposed NHA (Site code 000014) and c. 1.8km to the south-east of the Dromore Woods and Loughs SAC (site code 000032) and the Dromore Woods and Loughs Proposed NHA (Site code 000032). In addition, the site is located 2.75m to the north-east of the Lower River Shannon SAC (site code 002165).

## 6.0 **EIA Screening**

The scale of the proposed development does not exceed the thresholds set out by the Planning and Development Regulations 2000 (as amended) in Schedule 5, Part 2(10), and I do not consider that any characteristics or locational aspects (Schedule 7) apply. I conclude that the need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required. Appendix 1 and Appendix 2 of my report refers.

## 7.0 **The Appeal**

### 7.1. **Grounds of Appeal**

The Commission received a 3<sup>rd</sup> party appeal against the decision of the planning authority to grant planning permission on the 6<sup>th</sup> March 2026. The grounds of which can be summarised as follows:

1. Separation distance from National Monument.
  - Propose development poses a threat to national monument (ringfort CL26-079) due to proximity and within zone of notification.
  - A sufficient distance between development and national monument is crucial – in this instance the common required mitigation distance not adequate.
  - Developments often required to maintain a buffer/exclusion zone of at least 20m – proposed development is only 1 or 2 meters from the ringfort.

## 2. Application for dwelling in the countryside

- Does applicant require a dwelling – parents own 4 no. apartments to the front of the appeal site.
- Applicant resides in Ennis in partners home – Extracts from RTE news/Breaking News demonstrate such.
- Architectural technician who prepared the application appears to have given the incorrect information on the Planning Application form – Part 2(b).
  - Question 1 – have you or your spouse/partner ever owned a home is ticked as no – extract from RTE on the 25<sup>th</sup> November 2025 indicates applicant shares a home in Ennis.
  - Question 2 - Is your present accommodation owned by you, rented by you, if other please specify – Applicant has stated living with parents but article from RTE (25/11/2025) indicates different.
  - Question 3 – Please give details of all previous places of residence – the applicant states Ballycarroll, Barefield from 02-05-1984 to date but article from RTE (25/11/2025) indicates different.
- Based on typical local need criteria – applicant who already shares a house with her husband in Ennis is unlikely to meet criteria for building a new house.
- Factors likely to be considered:
  - Existing housing stock – Planning Authority should generally adhere to policies that discourage the proliferation of rural housing if applicant already owns suitable habitable accommodation in the immediate area - Owning a house nearby suggests a lack of genuine need.
  - Definition of Local Needs – typically designed for people who do not have a home, are living in restricted conditions or have a critical need to live in a specific location (farming, caring or long-standing local ties).

- Applicant is a Garda Sergeant in Limerick and returned to work in 2026 (Extract from Irish Examiner included) – on pg 8 Section 2(b) Q4 occupation is listed as a bar and restaurant manager.
- Criminal Offence – Under Section 9 of the Local Government (Planning and Development) Act 1963 and subsequent updated acts – knowingly making a false or misleading statement in a planning application is an offence which can lead to fines.
- All information this information was provided to the planning authority 3whenoringinal observation was lodged – also informed enforcement section.
- If Planning Authority granted permission despite being aware of misleading information provided constitutes a complex legal question – suggests a major administrative failure and potential legal wrongdoing.
- If applicant knowingly provided false or misleading information – committed a criminal offence while the planning authorities knowledge of this could indicate gross negligence, maladministration or corruption.
- Invalidation - errors on Planning applications regarding site area, ownership or 'local need' can render an application invalid even if not recognised by planning authority.
- Material Misrepresentation – if information was materially inaccurate permission can be deemed invalid by the courts.
- Local Needs violation – providing parents address when you are living elsewhere masks true location and invalidates local need claim.
- Invalid application – if site visit by planning officer or objection from member of the public reveals address provided is incorrect application can be deemed invalid – some cases permission can be refused/revoked.

- Plannign Authority were made aware of misinformation provided in the application and did nothing about it – breach of duty/statutory obligations.
- Reported to enforcement section of the Planning Authority – if granted permission on false pretences then not lawfully permitted.
- Revocation power – if planning authority find that there was a misrepresentation of or inaccuracy in the planning documentation then they have the power to revoke their decision.

### 3. Inconsistent development

- Constitutes backland development – house is being built behind a row of houses and a carpark behind the established building line.
- Conflicts with the existing pattern and character of the area.
- Disrupts the pattern and character of area setting a bad precedent.
  - Policy of Planning Authority as set out in the County Plan (policy RH9) to control piecemeal and haphazard development.
  - Proposed development would conflict with policy RH9 when taken in conjunction with existing and proposed development within the area – consolidate and contribute to the build up of ad-hoc development in an open rural area.
  - Militate against preservation of rural environment and lead to demand for further public services and community facilities.
  - Therefore – contrary to the proper planning and sustainable development of the area.
  - Constitutes haphazard backland development.

### 4. Proximity to motorway.

- Noise assessment should have been submitted

### 5. Site also utilised as part of Tour De Burren

- Adds to noise levels in the area.

#### 6. Wastewater and Environmental Pollution

- Given the WWTP for public house, café and apartments will need to be relocated as is proposed in this application then also a second WWTP added to the new development – a screening assessment may be necessary due to the volume of wastewater involved.
- Volume of development may require a mains sewer system – not located in the area.
- Public house and café appear to be in ownership of applicants partners – so why in the new proposed WWTP for public house and café accompanying this application.

#### 7. Second row of apartments appear on planning drawings

- Appears from drawings there is an intention to seek permission for a new apartment development – figure 8 referenced.
- All this development together with existing public house and apartments will put considerable pressure on groundwater of the area.
- If planning is permitted and taking into consideration the number of items above – serious breach of the Planning and Development Act 2000.

#### 8. Infrastructure and access

- Right of way is through a car park – currently serves restaurant/apartments/public house.
- Substandard and seriously overused.
- Figure 8 indicates this.

This is the 4<sup>th</sup> attempt at permission – permission granted this time despite serious anomalies.

### 7.2. Applicant Response in the case of a 3<sup>rd</sup> Party Appeal

The Commission received a response from the applicant on the 3<sup>rd</sup> April 2026 which can be summarised as follows:

1. Separation distance to national monument.

Ringfort is located in the centre of site – engage a qualified archaeologist who outline in their assessment that the development would be suitable under condition that site was monitored during construction.

Requires that all building to be outside the ‘Zone Arch’.

Could have proposed to dig closer to the monument but aware that this would require of what that would require and the impact it may have.

2. Local Need

Apartments in family ownership not relevant.

Resides in Barefield – went to school in Barefield – living here consistently for last 2 year and work in local public house/café.

Confirm local to the area.

Issues of personal nature about past occupations not relevant in the Planning Process.

Saddened by reals of press articles submitted.

3. Inconsistent Development

Undertook consultation with Planning Officer – site was not deemed backland development.

4. Proximity to motor way

Site visit was undertaken by Planning Officer – no noise report requested.

5. Tour de Burren

Not a planning issue.

6. Water and Environment issues

Refer to Planning assessment.

7. Second row of apartment buildings

This would be subject to a separate planning application.

8. Infrastructure and access

A right of way already exists – signed by owners and documents included in planning application submitted.

9. Family deep roots

Applicant is the owner of site – Monument park was rented to the tidy town. This lease has now expired. If required can provide for an alternative access.

### 7.3. Planning Authority Response

A response from the Planning Authority was received on the 19<sup>th</sup> March 2026 which stated the following:

- *Archaeology*

Appeal site largely outside the zone of notification.

Archaeological Assessment Report included in application.

Condition no. 7 relates to Archaeology

- *Rural Need*

Concerns over applicant's home address and profession were noted.

Applicant provided evidence via birth certificate and school records of their local needs.

Policy CDP 4.14 requires applicant or partner must not previously or currently own a dwelling in the surrounding rural area – no evidence/con concern show applicant owns a property in the rural area.

Ownership of a dwelling in the urban area is not required to be considered by the relevant policy.

- *Development Positioning and WWTP*

Appeal site has a number of constraints - WWTS enlargement was granted under planning application P21/64 and remains extant until 1<sup>st</sup> December 2026.

Suitable separation from granted and propose WWTP were provided for.

Planning Authority are satisfied with their assessment and request that the Commission uphold their decision.

#### 7.4. **Observations**

None received.

### 8.0 **Assessment**

#### 8.1. **Introduction**

8.1.1. Having examined the application details and all other documentation on file, including the appeal, and having inspected the site and having regard to the relevant local policy guidance, I consider the main issues in relation to this appeal are as follows:

- Rural Housing Need
- Design and Layout
- Archaeology
- Waste Water Treatment Plant
- Other Issues

#### 8.2. **Rural housing need**

8.2.1. The appeal site is situated in Barefield, Co. Clare and is currently not zoned. Barefield is identified as a small village within the Clare County Development Plan 2023-2029 (CCDP) and the appeal site is situated within a rural area which is under strong urban influence.

8.2.2. Section 4.2.6 of the CCDP, Single houses in the countryside, notes that areas identified as being under strong urban influence are considered as areas of special control and as such applicants seeking permission for a rural dwelling must comply with Objective CDP 4.14 - New Single Houses in the Countryside within the 'Areas of Special Control'. Objective CDP 4.14 sets out 2 no. categories which an application must comply with. Category A sets out the criteria for an economic need while category

B sets out the criteria for social need. In this instance the applicant for permission is seeking permission for an infill rural dwelling based on their social need.

- 8.2.3. Objective CDP 4.14 B (i) states that a person who is an intrinsic member of a local rural community who was born within the local rural area, **or** who is living or has lived permanently in the local rural area for a minimum of 10 years either as one continuous period or cumulatively over a number of periods prior to making the planning application and who has a demonstrable social need to live in the area. Furthermore, the objective states that the applicant must not already own or have owned a house in the surrounding rural area and needs the dwelling for their own permanent occupation.
- 8.2.4. The applicant has submitted a copy of their birth certificate which indicates that they were born in they were born in the County Hospital in Ennis and that their parents resided in Barefiled. I consider that this satisfies the requirements of Objective CDP 4.14 B (i) of the CCDP and that the applicant therefore has a social need to live at this location. I note that the application documentation also included a letter from the National School in Barefiled and a completed Part 2 of the Planning Application form.
- 8.2.5. The appellant to this appeal contends that the applicant's parents already own a number of residential units in Barefiled where the applicant could reside as opposed to building a new one.
- 8.2.6. I consider that given that the applicant does not own any other properties within Barefiled, that they are entitled to apply for permission for their own dwelling. I do not consider that property portfolio of the applicants' parents to be a planning consideration in this instance.
- 8.2.7. It is further contended by the 3<sup>rd</sup> part appellant that the applicant resides in Ennis in a dwelling which is owned by their partner and this is supported by extracts from various newspapers and as such it is stated that applicant who already shares a house with her husband in Ennis is unlikely to meet criteria for building a new house.
- 8.2.8. The wording of Objective CDP 4.14 B (i) of the CCDP states that the applicant must not already own or have owned a house in the surrounding rural area. Ennis is identified as a key town within the settlement strategy of the CCDP. There is no evidence provided to me that the applicant is the owner of any other dwelling whether it be in the urban or rural location. I do not accept that newspaper articles submitted by the appellant to be a factual source as they do not provide any legal evidence as to the

ownership of any dwelling. However, the dwelling referenced by these articles is located in an urban area and not the surrounding rural area.

- 8.2.9. Overall, I accept the assessment of the Planning Authority and consider that the applicant has demonstrated that they have a bona-fide need to reside in the rural area of Barefiled and has complied fully with the requirements of Objective CDP 4.14 B (i) of the Clare County Development Plan 2023-2029.

### 8.3. Design and Layout

- 8.3.1. It is contended that the proposed development represents haphazard backland development which would conflict with policy RH9 of the County Plan when taken in conjunction with existing and proposed development within the area and would therefore be contrary to the proper planning and sustainable development of the area.
- 8.3.2. I note that the appellant makes reference to Policy RH9 of the CCDP, however the plan does not include any policy with this title. Barefiled village is linear in form with the main amenities being situated on a central crossroad area formed by the R458 and the Cragaweelcross Road. The existing housing stock within the area comprises of large, detached dwellings, a mix between single and two stories in height, which are on large plots and set back significantly from the road entrance. From undertaking a site visit and from a review of arial maps available to me on [google.ie/maps](https://www.google.ie/maps) I do consider that there is an established building line formed. Dwellings situated to the east of the R458 to a point where the Church View apartments are located vary in how they are situated on site.
- 8.3.3. The proposed dwelling has been situated to the rear of the Church View apartments with access being proposed via an existing car park area which serves the existing bar and restaurant. The proposed dwelling is single storey in nature and has an indicated ridge height of c.6.1m in height. The apartment building situated to the west is 2 storeys in height. The proposed dwelling is set back in excess of c.30m from the rear elevation of the existing apartment building.
- 8.3.4. I consider that the existing apartment building will screen the proposed dwelling from the R458 and given the existing vehicular entrance available to serve the site I consider that the dwelling would not represent haphazard ah-doc development.

#### 8.4. **Archaeology**

- 8.4.1. The appellant contends that the proposed dwelling poses a threat to a national monument (ringfort CL26-079) due to proximity and being within the zone of notification. It is argued that a sufficient distance between the proposed development and the national monument is crucial and that in this instance the common required mitigation distance not adequate.
- 8.4.2. A desk based archaeological impact assessment report which was prepared by a suitably qualified Archaeologist and submitted with the application. The report notes that the recorded monument is situated c.25m to the south of site boundary and a further 24m from the southern boundary of the proposed dwelling. The report provides mitigation which will be employed during the construction phase which includes monitoring to be carried out under licence by a suitably qualified archaeologist.
- 8.4.3. The Planning Authority received a submission from the Department of Housing, Local Government and Heritage which stated that following a review of the Desk-Based Archaeological Assessment Report submitted in support of the planning application that the Department acknowledges the findings of the assessment report and concurs with the archaeological impact statement and recommended mitigation measures (archaeological monitoring) contained therein.
- 8.4.4. I consider that having regard to the separation distance provided from the appeal site to the monument, mitigation proposed within the Archaeological Assessment Report submitted, the submission on file from the Department of Housing, Local Government and Heritage and the assessment of the Planning Authority, that the proposed development will not negatively impact upon the national monument (ringfort CL26-079) in light of the mitigation proposed which will be conditioned to be complied with.

#### 8.5. **Waste Water Treatment Plant**

- 8.5.1. The appellant to this appeal considers that the proposed wastewater treatment plant together with the treatment plant to serve the public house, café and apartments may require a screening assessment. Concern is also raised as to why the new proposed WWTP for public house and café is accompanying this application as they are not in the applicant ownership.

- 8.5.2. In the first instance I would clarify that this application is seeking permission for a WWTP to serve the proposed dwelling solely. The characteristics report submitted as part of the application documentation indicates that the WWTP has been designed to serve a dwelling with the population equivalent of 6 which would equate to floor plans submitted as part of the application.
- 8.5.3. This application is not seeking permission to relocate or provide for any other treatment plant to serve any of the commercial properties within the vicinity. There is an extant permission (PA Ref P21/64) which relates to works to the outdoor seating area associated with the adjacent commercial properties. As part of the response to further information relating to the PA Ref 21/64 it was noted that the existing WWTP serving the public house and Church View apartments was at the end of its life expectancy and as such a new WWTP was proposed. The permitted WWTP has a loading of 40 no. people.
- 8.5.4. Having regards to the scale of both the proposed WWTP and that permitted under PA Ref 21/64 I do not consider them to be of a scale that would be out of keeping with a town of this area and therefore would not warrant any further assessments. I note further that there is a report on file available to me from the Environment Section of the Planning Authority which notes that the information provided is acceptable and recommends that permission be granted subject to condition.
- 8.5.5. Notwithstanding the above, I note that the Planning Officer within their report noted that proximity of the proposed dwelling to the percolation area and as such recommended that a condition be attached to set the proposed dwelling back 4m to the west to ensure there is no impact on public health. I agree with this assessment and recommend that in the event the Commission grant permission a similar condition be included.

## 8.6. **Other Issues**

### 8.6.1. Procedural issues

The appellant contends that the information provided by the applicant to the Planning Authority is a misrepresentation and that the Planning Authority were made aware of same during the submission period. It is argued that the decision of the Planning

Authority represents a major administrative failure and potential legal wrongdoing given the information provided to them in the 3<sup>rd</sup> party submission.

I consider that the Planning Authority based their assessment on the plans and particulars provided to them by the applicant. From a review of the Planning Officers assessment, I note that consideration was given to concerns raised by the 3<sup>rd</sup> party appellant. However, no evidence was provided to them to support the comments made within the observation submitted.

#### 8.6.2. Tour De Burren

The appellant notes that the appeal site is utilised during the Tour de Burren which adds noise to the area. I am unsure as how this is applicable to my assessment of the development seeking permission and accept the response put forward by the applicant that this is not a planning issue. The applicant is the landowner and therefore they have the right to decide what the land is utilised for.

#### 8.6.3. Planning Drawings

The appellant makes reference to a future potential development which is noted on the proposed site layout plan submitted and it is contended that all this development together with existing public house and apartments will put considerable pressure on groundwater of the area. It is further argued that if permission is granted and taking into consideration the future potential development that this would represents a serious breach of the Planning and Development Act 2000.

I would draw the Commissions attention to Section 10 of my report below where I have considered the proposed development in terms of the Water Framework Directive. The Ennis groundwater catchment currently has a good status, and I do not consider that the proposed development will jeopardise that given the proposed new wastewater treatment plant which is proposed to serve the development. The appellant has failed to demonstrate how the proposal would be in breach of the Planning and Development Act 2000 (as amended). My assessment pertains solely to the statutory description of the development subject to this appeal and any further development would be subject to a separate planning application.

#### 8.6.4. Access

The appellant argues that the right of way through the car park currently serves a number of commercial properties within the vicinity of the site and that the access is substandard and overused.

The R458 has a posted speed limit of 50km/hr. Tabel A2-Sight Distance requirements and states for a road with a posted speed limit of 50km/hr distance of 70m is required. I note from a review of plans submitted and from undertaking a site visit that the access from the R458 complies with the requirements of table A2 and the applicant has indicated a right of way over this access to serve the appeal site. I therefore do not accept the concerns raised by the appellant in this instance.

#### 8.6.5. Proximity to Motorway

It is contended that given the proximity of the appeal site to the M18 that a noise survey should have been undertaken. I note that the appeal site is situated c. 233m to the west of the M18 and is separated via an undeveloped area of land and the Barefield Road and Roundabout. I note that there is no statutory requirement for the applicant to provide for a noise assessment and consider that the separation distance to be adequate to mitigate from excessive noise levels.

## 9.0 AA Screening

9.1. In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Ballyallia Lake SAC (site code 000014); the Ballyallia Lough SPA(site code 000014); the Dromore Woods and Loughs SAC (site code 000032) and the Lower River Shannon SAC (site code 002165) or any other European site, in view of the conservation objectives of these sites and is therefore excluded from further consideration. Appropriate Assessment is not required.

9.2. This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.

- Taking into account screening determination by LPA.

9.3. See Appendix 2 of this report for Appropriate Assessment Screening Determination. No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.

## 10.0 Water Framework Directive

10.1. The subject site is situated at Barefield, Ennis, Co. Clare. The application is seeking permission for a new private dwelling with garage site entrance and all associated site works.

10.2. The Ballymaconna River is situated c.663.8m to the south of the site which has a moderate status. The site is also situated within the Ennis groundwater catchment which has a good status.

10.3. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seeks to protect and, where necessary, restore surface & ground water bodies in order to reach good status (meaning both good chemical and good ecological status), and to prevent deterioration. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from further assessment because there is no conceivable risk to any surface and/or groundwater water bodies either qualitatively or quantitatively.

10.4. The reason for this conclusion is as follows:

- Nature of works regard the scale;
- Location-distance from nearest Water bodies and/or lack of hydrological connections.

10.5. I conclude that on the basis of objective information, that the proposed development will not result in a risk of deterioration on any water body (rivers, lakes, groundwaters, transitional and coastal) either qualitatively or quantitatively or on a temporary or permanent basis or otherwise jeopardise any water body in reaching its WFD objectives and consequently can be excluded from further assessment.

## 11.0 Recommendation

I recommend that the decision of the Planning Authority be upheld and that permission be granted for the reasons and considerations set out below.

## 12.0 Reasons and Considerations

Having regard to the sites location in a rural area under strong urban influence and the applicant's demonstrated need for rural housing in accordance with the criteria set out in Objective CDP 4.14 and Category B – Social Need i (member of a local rural community), together with the nature, scale and design of the development it is considered that, subject to compliance with the conditions set out below, the proposed development would not seriously injure the residential amenity of the area, would not result in the creation of a traffic hazard or be injurious to public health or the environment, 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.

## 13.0 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 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. The proposed development shall be amended as follows:
  - a. The dwelling shall be repositioned 4m to the west to maintain a 10m separation distance from the percolation area.
  - b. The 1<sup>st</sup> floor rear window on the western elevation of the garage shall be omitted.

Revised drawings showing compliance with these requirements shall be submitted to and agreed in writing with, the Planning Authority prior to commencement of development.

Reason: In the interest of protecting public health and residential amenity.

4. The proposed garage shall not be utilised for human habitation, or any commercial activity or for any other purpose than a purpose incidental to the enjoyment of the dwelling. The structure shall not be let, sold, leased or otherwise used as a separate dwelling unit.

Reason: To protect the amenities of the area and to control the intensity of the use of the site.

5. The finished floor level of the proposed dwelling shall be as specified on the Site Layout Plan submitted to the Planning Authority on the 8<sup>th</sup> December 2025 and shall not be modified without the prior written consent of the Planning Authority.

Reason: In the interest of the proper planning and sustainable development of the area .

6. The developer shall engage a suitably qualified (licensed eligible) archaeologist to monitor (licensed under the National Monuments Acts) all site clearance works, topsoil stripping, groundworks, dredging and/or the implementation of agreed preservation in-situ measures associated with the development. Prior to the commencement of such works the archaeologist shall consult with and forward to the Local Authority archaeologist or the NMS as appropriate a method statement for written agreement. The use of appropriate tools and/or machinery to ensure the preservation and recording of any surviving archaeological remains shall be necessary. Should archaeological remains be identified during the course of archaeological monitoring, all works shall cease in the area of archaeological interest pending a decision of the planning authority, in consultation with the National Monuments Service, regarding appropriate mitigation. The developer shall facilitate the archaeologist in recording any remains identified. Any further archaeological mitigation requirements specified by the planning authority, following consultation with the National Monuments Service, shall be complied with by the developer. Following the completion of all archaeological work on site and any necessary post-excavation specialist analysis, the planning authority and the National Monuments Service shall be furnished with a final archaeological report describing the results of the monitoring and any subsequent required archaeological investigative work/excavation required. All resulting and associated archaeological costs shall be borne by the developer.

Reason: To ensure the continued preservation [either in situ or by record] of places, caves, sites, features or other objects of archaeological interest.

7. All surface water generated within the site boundaries shall be collected and disposed of within the curtilage of the site. No surface water from roofs, paved areas or otherwise shall discharge onto the public road or adjoining properties.

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

8. The site shall be landscaped, using only indigenous deciduous trees and hedging species, in accordance with details which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development. This scheme shall include the following:

(a) the establishment of a hedgerow along both sides of the access road serving the dwelling with native hedgerow species interspersed with native trees at 5m intervals. Any plants, trees or hedging 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 and assimilate it into the surrounding rural landscape, in the interest of visual amenity

9. 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 11th November 2024 and shall be in accordance with the standards set out in the document entitled “Code of Practice - Domestic Waste Water Treatment Systems (Population Equivalent  $\leq 10$ )” – 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  $\leq 10$ )” – 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

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 commencement of development or in such phased payments as the planning Inspector's Report 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.

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 me, directly or indirectly, following my professional assessment and recommendation set out in my report in an improper or inappropriate way.”

---

Kathy Tuck  
Planning Inspector

9<sup>th</sup> June 2026

## Appendix 1

### EIA Pre-Screening

<b>Case Reference</b>	ACP-500936-26
<b>Proposed Development Summary</b>	House, garage with loft, treatment system and ancillary site works
<b>Development Address</b>	Moanmore Lower, Kilrush, Co. Clare
<b>In all cases check box /or leave blank</b>	
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b>	<input checked="" type="checkbox"/> Yes, it is a 'Project'. Proceed to Q2.
	<input type="checkbox"/> No, No further action required.
<b>2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?</b>	
<input type="checkbox"/> Yes, it is a Class specified in Part 1.	
<input checked="" type="checkbox"/> No, it is not a Class specified in Part 1. Proceed to Q3	
<b>3. Is the proposed development of a CLASS specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) OR a prescribed type of proposed road development under Article 8 of Roads Regulations 1994, AND does it meet/exceed the thresholds?</b>	
<input type="checkbox"/> No, the development is not of a Class Specified in Part 2, Schedule 5 or a prescribed type of proposed road development under Article 8 of the Roads Regulations, 1994.  <b>No Screening required.</b>	
<input type="checkbox"/> Yes, the proposed development is of a Class and meets/exceeds the threshold.	

<input checked="" type="checkbox"/> Yes, the proposed development is of a Class but is sub-threshold.	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.

<b>4. Has Schedule 7A information been submitted AND is the development a Class of Development for the purposes of the EIA Directive (as identified in Q3)?</b>	
Yes <input type="checkbox"/>	Screening Determination required (Complete Form 3)
No <input checked="" type="checkbox"/>	Pre-screening determination conclusion remains as above (Q1 to Q3)

Inspector: \_\_\_\_\_

Date: \_\_\_\_\_

## Appendix 2

### EIA Preliminary Examination

<b>Case Reference</b>	ACP-500936-26
<b>Proposed Development Summary</b>	New private dwelling with garage site entrance and all associated site works.
<b>Development Address</b>	Barefield, Ennis, Co. Clare.
<b>This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.</b>	
<b>Characteristics of proposed development</b>  (In particular, the size, design, cumulation with existing/ proposed development, nature of demolition works, use of natural resources, production of waste, pollution and nuisance, risk of accidents/disasters and to human health).	<p>Permission is sought for the provision of a new single storey dwelling, a garage and site entrance on a site situated at Barefield, Ennis, Co. Clare.</p> <p>Water connection will be provided from existing mains within the vicinity of the subject site and it is proposed to provide for a onsite wastewater treatment plant to serve the dwelling.</p> <p>The development would not result in the production of significant waste, emissions, or pollutants.</p>
<b>Location of development</b>  (The environmental sensitivity of geographical areas likely to be affected by the development in particular existing and approved land use, abundance/capacity of natural resources, absorption capacity of natural environment e.g. wetland, coastal zones, nature reserves, European sites, densely populated areas, landscapes, sites of historic, cultural or archaeological significance).	<p>The appeal site is situated within a 'Settled Landscape' and within the 'Area of Special Control' which is identified as an area under 'Strong Urban Influence'. There is a national monument (Monument CL026-079---- (Ringfort - rath)) located within the vicinity of the site.</p> <p>The subject site is not located within a designated site. The appeal site is situated 1.8km to the north-east of the Ballyallia Lake SAC (site code 000014); the Ballyallia Lough SPA(site code 000014); and c. 1.8km to the south-east of the Dromore Woods and Loughs SAC (site code 000032) and 2.75m to the north-east of the Lower River Shannon SAC (site code 002165).</p> <p>There is no direction connection from the subject site to any Natura 2000 sites.</p>

	<p>The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other rural developments.</p> <p>There are no other locally sensitive environmental sensitivities in the vicinity of relevance.</p>
<p><b>Types and characteristics of potential impacts</b></p> <p>(Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).</p>	<p>There would be no significant cumulative considerations.</p>
<b>Conclusion</b>	
<b>Likelihood of Significant Effects</b>	<b>Conclusion in respect of EIA</b>
<p>There is no real likelihood of significant effects on the environment.</p>	<p>EIA is not required.</p>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 3

### Screening for Appropriate Assessment

#### **Appropriate Assessment: Screening Determination (Stage 1, Article 6(3) of Habitats Directive)**

I have considered the proposed development in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The proposed development comprises the construction of a new dwelling, garage, vehicular entrance, on site wastewater treatment plan and all associated site works at Barefield, Ennis, Co. Clare.

The Planning Authority, within their assessment, undertook a screening determination of the proposed development and found that significant effects are not likely to arise, either alone or in combination with other plans and projects that will result in significant effects to any Natura 2000 area. It was concluded that a full Appropriate Assessment of this project is therefore not required.

#### **European Sites**

The proposed development site is not located within or immediately adjacent to any site designated as a European Site, comprising a Special Area of Conservation or Special Protection Area (SPA).

The boundary of the nearest European Site is within 15 km or no. 5 of European sites are located within a potential zone of influence of the proposed development.

These are:

- Ballyallia Lake SAC (site code 000014).
- Ballyallia Lough SPA(site code 000014).

- Dromore Woods and Loughs SAC (site code 000032).
- Lower River Shannon SAC (site code 002165).
  - Lower River Shannon SAC (site code 002165).

There are no direct natural hydrological connections from the subject site to any Natura 2000 Sites.

### **Screening Determination**

#### **Finding of no likely significant effects**

In accordance with Section 177U of the Planning and Development Act 2000 (as amended) and on the basis of the information considered in this AA screening, I conclude that the proposed development individually or in combination with other plans or projects would not be likely to give rise to significant effects on Ballyallia Lake SAC (site code 000014), Ballyallia Lough SPA(site code 000014), Dromore Woods and Loughs SAC (site code 000032), Lower River Shannon SAC (site code 002165), and the Lower River Shannon SAC (site code 002165) or any other European site, in view of the Conservation Objectives of those sites and Appropriate Assessment (and submission of a NIS) is not therefore required.

This determination is based on:

- The relatively minor scale of the development and lack of impact mechanisms that could significantly affect a European Site.
- Distance from and weak indirect connections to the European sites.
- Taking into account screening determination by Planning Authority.

No mitigation measures aimed at avoiding or reducing impacts on European sites were required to be considered in reaching this conclusion.