



An
Coimisiún
Pleanála

Inspector's Report

PL-501057-CE-26

Development

Construction of a detached dormer dwelling, detached domestic garage, and all associated site works.

Location

Lisduff, Clonlara, Co. Clare.

Planning Authority

Clare County Council

Planning Authority Reg. Ref.

2612

Applicant(s)

Patrick Noonan

Type of Application

Permission

Planning Authority Decision

Grant Permission + Conditions

Type of Appeal

Third Party Normal Planning Appeal

Appellant(s)

Lavina O'Shea

Observer(s)

None

Date of Site Inspection

21st May 2026.

Inspector

Kathy Tuck

1.0 Site Location and Description

- 1.1. The appeal site which has a stated area of 0.57ha is situated within the townland of Lisduff, Co. Clare. Lisduff is located c.1.35km to the west of the Co. Clare and Co. Limerick Boarder which is formed by the River Shannon. In addition, the site is situated c.12km to the north of Limerick City.
- 1.2. The appeal site is formed by two greenfield sites, with the proposed location for the dwelling addressing the public road, adjacent to 2 no. existing dwellings. The second site area, where it is proposed to locate the percolation area, is situated to the west and forms part of farmlands. There is an open ditch situated along the front, southern, boundary of the site where the site addresses the L-7044.

2.0 Proposed Development

- 2.1. This is an application seeking permission for the provision of a detached dormer dwelling, detached domestic garage, new entrance and driveway, pumped wastewater treatment system and rising main located on ancillary lands, private bored well, and landscaping together with all associated ancillary site development works.
- 2.2. The proposed dwelling has a stated area of c.319 sq.m and the proposed garage has a stated area of c.60 sq.m. The dwelling is finished with a pitched roof profile with a ridge level of c.7.989m which reduces to c.4.434m on each of the side single storey projections.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to grant planning permission on the 13th March 2026 subject to 9 no. conditions. Conditions of note are as follows:

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 no. 3

Finished floor level of the dwelling shall be as indicated on site layout plan submitted and site shall be landscaped as indicated on same.

Condition 4

Entrance gate shall be recessed 2.4m inside the line of the existing road boundary with wing walls not more than 1.1m in height splayed at an angle of 45 degrees or bell mouthed in a manner to give an entrance width of 13.5m at the new fence line.

Condition 9

Section 48 Development contribution €7,937.00

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 and 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

Report notes no objection subject to condition.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

The Planning Authority received 1 no. submission relating to the proposed development. Concerns raised were as follows:

- Impact on the ground of the site in the long term is unassessed, for example: permanent mottling

- FOI request for details of why Local Authority undertook drainage works in 2016 - indicated that the purpose of the drainage work undertaken in 2016, was to complete essential drainage while the roads were being resurfaced.
- drainage holes on the ditches adjoining lands has led to the land becoming more sodden, particularly when there is high rainfall.
- effect on local drainage systems if the applicant is permitted to build over the existing drain, even if Council staff are present.
- Breach of rural housing policy.
- Applicant granted permission in the townland of Summerhill, Clonlara, planning ref: (2360290) - housing need was addressed as a local rural person who wishes to reside near his family.
- Applicant has not addressed the issue of why he did not build in Summerhill on his previous and current planning applications.
- Permission granted in 1999 to the family for 6 houses – 2 were built. Permission now being sought on of these sites.
- Planning decisions regarding the land in question were made over the lifetime of several County Development Plans – Planning Authority need to clarify its own objectives in relation to the land in question should future planning permission be sought.

4.0 Planning History

Appeal Site

PA Ref 99/1162	Permission GRANTED to construct 6 no. domestic dwelling houses septic tank and ancillary site works.
PA Ref 09/200	Permission GRANTED for the erection of a dwelling house, waste water treatment system, percolation area, entrance and all associated works. Applicant: Danny Noonan.
PA Ref 14/150	Extension of Duration Granted for PA Ref 09/200.

PA Ref 25/30 Permission GRANTED for retention permission the following of works (A) the demolishing of a shed attached to the side of the dwelling, which was used in conjunction with the dwelling, (B) the construction of an extension to the side and rear of the dwelling including the raising of the roof level of the original dwelling, and (C) the replacing of the existing septic tank, and the improvement works carried out on the associated percolation area, all with associated site works. Applicant: Patrick Noonan.

Lands to the north

PA Ref 04/116 Permission GRANTED (outline ref. 99/1162) to construct 2 dwelling houses, entrance gate and septic tanks and ancillary site works. Applicant: Patrick Noonan

PA Ref 04/2531 EXTENSION OF DURATION GRANTED .

PA Ref 11/244for Retention Permission GRANTEDF for the existing dormer style extension to the rear of existing dwelling and permission for the construction of a new dormer style extension to the rear of the existing dwelling, and all associated site work. Applciant Ronan & Sinead Kelly.

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 'Working 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.

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 A – Economic Need

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.

(ii) Special consideration shall be given in limited cases for persons who need a dwelling for permanent occupation in a rural area for exceptional health reasons. Any application for permission in this category shall be accompanied by a report or recommendation (and other relevant supporting documentation) from a registered medical practitioner outlining the reasons why it is necessary for the applicant to live in the rural area or to reside near family/carer support (or alternatively requires care support to live in close proximity to them). Where applicable the applicant shall demonstrate why their existing home cannot be adapted to meet their needs and shall also demonstrate why their need for a house cannot be accommodated either in an existing settlement or in the countryside outside of the Areas of Special Control. In instances where the house is proposed to accommodate the person that will provide care for a person already residing in the rural area (such as elderly persons who have resided in the area over 10 years, and/or persons who qualify due to exceptional health reasons) the new dwelling must be sited adjacent to the existing dwelling, which shall be taken to mean sites that are in close proximity to the dwelling of the person that will be cared for.

iii. A person who is an intrinsic member of a local rural community, who was born within the local rural area or who is living or has lived permanently in the local rural area for a minimum of 10 years at any stage either as one continuous period or cumulatively over a number of periods prior to making the planning application, who

previously owned a home and is no longer in possession of that home due to the home having been disposed of following legal separation / divorce / repossession and can demonstrate an economic or social need for a new home in the rural area.

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 c.1.095km to the west of the Lower River Shannon SAC (Site Code 002165). In addition the site is situated c.4.68km to the south-east of the Glenomra Wood SAC (site code 001013).

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 3rd Party Appeal against the decision of the Planning Authority to grant permission on the 25th March 2026. The grounds can be summarised as follows:

1. Applicant obtained permission under PA Ref 23/60290 for a dwelling in Summerhill, Clonlara, Co. Clare.
 - Housing need was therefore addressed.

- Chose not to build instead chose to re-apply at Lisduff.
2. Planning Officers Report indicates applicant will not be building in Summerhill due to personal reasons:
- Reasons which were on applicants file PA Ref 2612 and PA Ref 25230.
 - Information on file but not available to the public – either on line or in actual file.
 - Planning Authority states personal information is only available to the Planning Officer.
 - Freedom of Information sought – no response received as of yet.

Understand why information may be withheld from on-line forum:

- Public and ACP should have access to information as may be necessary for assessing Planning Application.
 - Unaware as to whether or not applicants reasons for not building PA Ref 23/60290 is temporary or permanent.
 - Planning Officer should have reviewed permission for Summerhill – not in public interest that anyone can have 2 permissions in area under Urban Pressure.
3. Waste Water Treatment Plant (WWTP) and Percolation Area located of-site on lands in registered name of applicant's parents.
- Therefore, applicant has no legal interest in this area.
4. No indication of exact required distance between percolation area/WWTP from:
- Proposed dwelling
 - Neighbouring dwelling
 - Fathers dwelling.
5. Question site suitability given mottling/percolation area and WWTP located off site.
6. Concerned applicant will provide a roadside culvert to facilitate building:
- Council intend to oversee work.

- 2016 works undertaken to provide drainage work in front of the site – installed a pipe
- At same time drainage holes dug
- Work resulted in some flooding issues.

Sought clarification from Local Authority as to what these works were in 2016

- Informed they were essential drainage works.
- No further information is available on these works.
- How can a member of the public scrutinise such proposed works where complete absence of information in the public domain.

7. Planning Officer states applicant is willing to enter in a section 47 agreement:

- Why is this stated when applicant is not the registered owner of the site.
- Patrick Noonan has not been granted a S.47 agreement despite being granted permission to build 6 houses under PA Ref 99/1162.
- Two of these houses were constructed
- No Section 47 agreement – potential to build 3 more houses and run the risk of creating a cluster in Lisduff.
- Lisduff is an area under strong urban influence.

8. Planning Officer states development falls outside EU environmental Directive

- Construction of a house not considered to be significant.
- Essentially limited environmental factors considered.
- In context – in 2022 Permission refused under PA Ref 22/29
 - Note this application was made under previous Development Plan 2017-2022 but minimal difference between both plans
 - Permission refused for a dwelling 100 yard from appeal site on same narrow rural road/several dangerous bends/unimproved surface.

9. Conscious planning decision regarding the appeal site made over lifetime of several plans – Council need to clarify own obligations.

7.2. Applicant Response

The commission received a response to the 3rd Party Appeal from the applicant on the 22nd April 2026.

I note that the response document submitted includes a large amount of details regarding on-going and previous civil issues between the applicant and 3rd party appellant. I have undertaken a full review of the submission made by the applicant and consider that these issues do not appear to be relevant to the nature of development subject to this appeal.

The response to the grounds of appeal raised are as follows:

- Consider appeal to be vexatious without any foundation.
- Appellant does not offer any concise information/quoted references to support comments made:
 - Acknowledged objections must be clear and concise and persuasive to allow a Planner to review the merit of points being raised.
- Points are vague and do not offer any level of detail:
 - No evidence or documentation.
 - Appellants property not directly contiguous to appeal site and therefore development will not impact of affect their property.
 - Section 138 (1)(a)(i) and (ii) of the Planning and Development Act, 2000 (as amended) allows the Commission to dismiss appeals which are considered to be vexatious, frivolous or without substance or foundation.
- Permission granted to build a home on family land where applicant operates the family farm.
- Appeal is based on appellants opinion:
 - Not based on fact.
 - Considers development plan to be insufficient
 - No understanding of Planning System.
 - Submission designed to delay the applicant.

Item 1

Summerhill application Planning Authority Reference: 23-60290

- Purchase of site from family member fell through due to a change of mind on the vendors side.
- Informed the Council that this permission would therefore not be enacted.
- Applicant demonstrated willingness to engage correctly with the Planning System.
- Not a valid ground of appeal.
- Permission attaches to the land not the person.
- Applicant legally entitled to choose not to activate a permission in favour of a new application that suits their need more so.

Item 2

Planning Authority informed of issues with vendor of Summerhill Site – not information that should be kept on public file.

- Only issue relevant applicant not proceeding with PA Ref 23/60290 – permission will therefore expire without use.
- Solicitor letter not included in Planning Application Documents due to previous experiences with 3rd Party Appellant.
- Planning Authority have no legal basis to revoke the permission in Summerhill.

Item 3

Percolation area has been situated on Noonan Family land.

- Denoted on drawing no. DWG 002.
- Deemed suitable for percolation.
- Does not need to be own land to seek permission once letter of consent has been obtained.
- Acceptable to be located on family lands.
- This area is proposed to be transferred to the applicant post permission.

- Noted – applicant has engaged in planning the succession of the family farm.

Item 4

- Plans were validated by the Planning Authority – no issue raised.
- Relevant boundary dimensions indicated.
- Technical compliance are matters for building regulations.
- Site layout must meet EPA Code Of Practice.
- All separation distances as per table 6.2 of the EPA Code Of Practice have been achieved.

Item 5

Emphasis is place on Mottling.

- Appellant is referencing original site investigation submitted under PA Ref 25/230 – which was withdrawn.
- a subsequent site suitability location for a WWTP was submitted with the current application.
- Report was prepared by Environmental Scientist.
- Query raised offers no evidence.
- Site investigation report reviewed by Environmental Scientist in the Planning Authority and deemed acceptable.
- Issues raised relating to 2016 works undertaken by Council is a civil matter.

Item 6

- Culvert to be provided by applicant in line with Council agreement.
- Reference made to 2016 works not relevant to this appeal.
- No evidence provided that works required will not be carried out professionally.

Item 7

- Section 47 agreement standard tool to ensure dwelling will not be disposed of in the short term.

- Reference to Planning History of permission not subject to this appeal is irrelevant.

Item 8

Reference to PA Ref 22/29 refusal – would have been 7th house in a row of 6 houses constituting ribbon development.

- Standard refusal wording.
- Application site was located in Summerhill which is subject to different criteria.
- Each applicant for permission is assessed on its own merit.

Item 9

- Has not set out details/specifications of issue with Council policies.
- Appears appellant is aggrieved that she cannot obtain re-zoning of lands.

Planners Report

Provides for consideration of all docs on file including observations received:

- Signed by Senior Planner.
- Executive Scientist report accepted design.

7.3. Planning Authority Response

The commission received a response from the Planning Authority which requests that the decision be upheld as the proposed development complies with the requirements of the Clare County Development Plan 2023-2029.

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
- Waste Water Treatment Plant
- Other Issues

8.2. Rural housing need

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

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'.

8.2.3. 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.

8.2.4. The appellant contends that the applicant has already satisfied their rural housing need as they were granted permission under PA Ref 23/60290 for a dwelling at Summerhill, Clonlara, Co. Clare. The Appellant draws reference to the Planning Officers report where it states that the applicant has indicated that they will not be instigating the permission granted under PA Ref 23/60290 however there was no information available within on the public file or online which sets out the reasons as to why.

8.2.5. The Planning Officer in their assessment makes reference to the extant permission obtained by the applicant under PA Ref 23/60290 and that a letter was submitted on

this application and a previous application (PA Ref 25/230 which was withdrawn) which states that due to personal circumstances the applicant will not progress with the previously permitted development. The assessment of the Planning Officer concluded that having regard to the documentation on file and that submitted under PA Ref 23/60290 that the applicant complies with Policy CDP4.14 of the County Plan and that they have demonstrated that they a bona fide social need to live in the area where they grew up.

- 8.2.6. In the interest of clarity permission was granted under PA Ref 23/60290 to the applicant on a site situated at Summerhill, Clonlara, Co. Clare for a dwelling. Permission was sought under PA Ref 25/230 by the applicant for a dwelling on the appeal site, albeit a slight smaller area, for a dwelling but was deemed to be withdrawn on the 5th November 2025.
- 8.2.7. 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.
- 8.2.8. From a review of the documents on file and those redacted from the public planning file and on-line planning portal I note that the reason put forward by the Applicant as to why they will not progress with the development as permitted under PA Ref 23/60290 relates to legal ownership. Policy Objective CDP 4.14 B (i) clearly states that an applicant will be precluded from obtaining permission for a dwelling in a rural area under strong urban influence if they have already owned a house in the surrounding rural area. My interpretation of 'owning a house' would be owning one that has already been constructed and resided in. While the applicant obtained permission for a dwelling in the rural area it has not yet been constructed. Therefore the need still remains.
- 8.2.9. Furthermore, I note that condition no. 2 of the grant of permission issues under PA Ref 23/60290 places a restriction that dwelling shall be occupied as the place of permanent residence by the applicant and shall remain as such for a period of 7 years. Therefore,

in the event that the applicant does progress with the permission granted under PA Ref 23/60290 and fails to be the 1st occupant this could give rise to enforcement issues. I consider that no one other than the applicant could comply with the requirements of this condition.

8.2.10. The applicant, under PA Ref 23/60290 submitted a letter from the local primary school which states that Patrick Noonan (DOB 22-06-1989) attended the school between 1994 to 2002 and while in attendance at the school he resided at Lisduff Clonlara; A payments statement from the Department of Agriculture Food and the Marine, dated 2022 and addressed to Patrick Noonan at Lisduff Clonlara; and A letter from the Revenue office, dated 2023 and addressed to ‘ NPH Plant and Civils Limited’ at Lisduff Clonlara has been submitted. The Planning Officer in that instance accepted that applicant met the requirements of Policy Objective 4.14 of the County Plan and this was reiterated by the Planning Officer in their assessment of the current application, subject to this appeal.

8.2.11. Having regard to documents available to me on file, I accept that the applicant has demonstrated that they have a rural housing need and complies with the requirements of Policy Objective 4.14 of the Clare County Plan 2023-2029.

8.3. Waste Water Treatment Plant

8.3.1. The appellant has raised a number of concerns relating the proposed Wastewater Treatment Plant and associated percolation area in terms of site suitability, legal interest, and general statutory requirements for such. I have addressed each of these items below.

Legal Interest

8.3.2. The site layout plan submitted indicates that the percolation area proposed to serve the proposed dwelling is situated to the north of the proposed dwelling on lands located within the red line boundary of the appeal site as per the site layout plan and site location map which accompanied the application documentation. Article 22(2)(b)(i) requires that all land or structures to which the application relates and the boundaries thereof in red.

- 8.3.3. The application was also accompanied by a letter of consent from the landowner. I would draw the Commissions attention to section 5.13 of the Development Management Guidelines for Planning Authorities that advise that the planning system is not designed as a mechanism for resolving disputes about rights over land and that these are ultimately matters for resolution in the Courts. Furthermore, Section 34(13) of the Planning and Development Act 2000, (as amended), states that a person shall not be entitled solely by reason of a permission to carry out any development.
- 8.3.4. Therefore, I consider that the disputes between the parties in relation to land ownership or leaseholds are ultimately civil / legal issues that would be dealt with more appropriately outside of the planning process and ultimately a matter for the courts. Furthermore, given that the application has been accompanied by a letter of consent from the landowner I consider that the applicant has demonstrated that they have adequate consent to undertake the works proposed.

Site Suitability

- 8.3.5. The appellant makes reference to mottling in the location where the proposed percolation area is to be located. However, no evidence has been provided to this extent.
- 8.3.6. The planning application was accompanied by a site suitability report which includes for images of the trial holes which were dug on site. The report notes that these holes were dug to a depth of 2.2m on the 19th November 2025 and the water table was reached at a depth of 1.9m. The assessment concluded a sub-surface and surface percolation value of 25. There is no evidence of mottling occurring at this location within the suitability report submitted.
- 8.3.7. The report of the Environmental Scientist of the Local Authority concluded that the proposed WWTS and percolation area complies with the requirements of the EPA Code of Practice 2021.
- 8.3.8. Therefore, having regard to the expert assessments available to me from the Environmental Scientist of the Local Authority and the Site Characterisation Form submitted by the applicant, I consider that the proposed Waste Water Treatment Plant and associated Percolation Area proposed to serve the proposed dwelling is acceptable.

- 8.3.9. Furthermore, with concerns raised over the separation distance provided, I note that these distances, which comply with the EPA Code of Practice, are clearly indicated on the proposed site layout plan submitted (DWG. PP-004).

Conclusion

- 8.3.10. Overall, I consider that the applicant has demonstrated that the appeal site, to which he has a legal interest in, is suitable to provide for a Wastewater Treatment Plant and Percolation area as proposed to serve the proposed dwelling which accords with the requirements of the EPA Code of Practice, 2021.

8.4. Other Issues

8.4.1. Infrastructure Works

The appellant to this appeal makes reference to works which were undertaken in 2016 by Clare County Council to provide for a drainage pipe to the front of the appeal site and notes that there is no information available about these works in the public domain.

I do not consider that these works are relevant to my assessment of the appeal submitted. The planning authority included a condition to ensure that this drainage pipe is culverted by the applicant, under the supervision of the Local Authority, to ensure that the drain in situ is not damaged. In the event the Commission uphold the decision of the Planning Authority I recommend that this condition be retained.

8.4.2. Section 47 of the Planning and Development Act 2000 (as amended) Agreement

The appellant contends that a section 47 agreement is not applicable as the applicant is not the legal owner of the site and that the legal owner, Mr Patrick Noonan Senior was granted a S. 47 agreement under PA Ref 99/1162 where permission was granted for houses.

In the 1st instance, the application submitted was accompanied by a letter of consent from the landowner to make an application for permission. A Section 47 agreement as per the wording of the Act allows the Planning Authority to enter into an agreement with any person interested in land in their area. The applicant in this instance has demonstrated that they have an interest via the letter of consent submitted.

I do not consider that reference made to S. 47 agreement set out under PA Ref 99/1162 to be relevant to this appeal as this permission has now expired.

8.4.3. **Planning Precedent**

Reference is made by the appellant to a decision made under PA Ref 22/29 to refuse permission for a rural dwelling within the vicinity of the site. It is contended that permission sought under PA Ref 22/29 is similar in nature to the proposal subject to this application and such permission should be reused in this instance.

I have undertaken a review of the decision relating to PA Ref 22/29 and note that all cases are addressed and determined on their own merits having regard to the sensitivity of the receiving environment and the specifics of the proposed development.

It was further contended by the Appellant that the Council needs to clarify their own obligations given the differentiation in development plan policies over the previous and present County Development Plan periods. I note that the assessment of the Planning Authority has been based on the current 2023-2029 Development Plan which is the current statutory document that current proposals should be assessed against. I therefore consider that the obligations of the Planning Authority have been fulfilled and I do not consider that the Planning Authority need to justify this any further.

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 the Lower River Shannon SAC (site code 002165) and the Glenomra Wood SAC (site code 001013) 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 Lisduff, Clonlara, Co. Clare. The application is seeking permission for a new private dwelling with garage site entrance and all associated site works.

10.2. The River Shannon is situated c.1.34km to the east of the site which has a at risk status. The site is also situated within the Ardnacrusha groundwater catchment which has a not at risk 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. (a) The finished floor level of the proposed dwelling shall be as specified on the Site Layout Plan submitted to the Planning Authority on the 22nd January 2026 and shall not be modified without the prior written consent of the Planning Authority.

(b) The site shall be landscaped as per the landscaping details provided on the site layout plan received on the 22nd January 2026.

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

4. (a) The entrance gate shall be recessed 2.4m inside the line of the existing road boundary with wing walls not more than 1.1m in height splayed at an angle of 45 degrees or bell mouthed in a manner to give an entrance width of 13.5m at the new fence line. The finished level of the recessed entrance shall be the same as the road level opposite the entrance gates.

(b) the existing road side drain that runs along the road frontage of this site shall be culverted to the satisfaction of the Planning Department. Prior to the

commencement of development, full details as to the pipe size and design shall be submitted for the written agreement of the Plannign Authority.

Reason: To preserve the rural amenities of the area and in the interests of traffic safety and visual amenities.

5. External finishes of the permitted development shall be in accordance with those indicated on the plans and particulars received by the Planning Authority on the 22nd Januray 2026.

Reason: in the interest of visual amenity.

6. 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

7. 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 ≤ 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

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

Reason: In the interest of visual amenity.

9. 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

9th June 2026

Appendix 1

Form 1 EIA Pre-Screening

Case Reference	ACP-501057-26
Proposed Development Summary	Construction of a detached dormer dwelling, detached domestic garage, and all associated site works
Development Address	Lisduff, Clonlara, Co. Clare
	In all cases check box /or leave blank
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?	☒ Yes, it is a 'Project'. Proceed to Q2. ☐ No, No further action required.
2. Is the proposed development of a CLASS specified in Part 1, Schedule 5 of the Planning and Development Regulations 2001 (as amended)?	
☐ Yes, it is a Class specified in Part 1.	
☒ No, it is not a Class specified in Part 1. Proceed to Q3	
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?	
☐ 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. No Screening required.	
☐ Yes, the proposed development is of a Class and meets/exceeds the threshold.	

☒ 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.
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Inspector: _____

Date: _____

Appendix 2

Form 2 - EIA Preliminary Examination

Case Reference	ACP-500248-25
Proposed Development Summary	Construction of a detached dormer dwelling, detached domestic garage, and all associated site works
Development Address	Lisduff, Clonlara, Co. Clare
This preliminary examination should be read with, and in the light of, the rest of the Inspector's Report attached herewith.	
Characteristics of proposed development (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).	Permission is sought for the provision of a new dwelling, a garage and site entrance on a site situated at Lisduff, Clonlara, Co. Clare. Water connection will be provided from a proposed well and it is proposed to provide for a onsite wastewater treatment plant to serve the dwelling. The development would not result in the production of significant waste, emissions, or pollutants.
Location of development (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).	The appeal site is situated within a 'Worked Landscape' and within the 'Area of Special Control' which is identified as an area under 'Strong Urban Influence'. The subject site is not located within a designated site. The appeal site is situated c.1.095km to the west of the Lower River Shannon SAC (Site Code 002165) and c.4.68km to the south-east of the Glenomra Wood SAC (site code 001013). There is no direction connection from the subject site to any Natura 2000 sites. The proposed development would not give rise to waste, pollution or nuisances that differ significantly from that arising from other rural developments. There are no other locally sensitive environmental sensitivities in the vicinity of relevance.

Types and characteristics of potential impacts (Likely significant effects on environmental parameters, magnitude and spatial extent, nature of impact, transboundary, intensity and complexity, duration, cumulative effects and opportunities for mitigation).	There would be no significant cumulative considerations.
Conclusion	
Likelihood of Significant Effects	Conclusion in respect of EIA
There is no real likelihood of significant effects on the environment.	EIA is not required.

Inspector: _____ **Date:** _____

Appendix 3

AA Screening Determination

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 Lisduff, Clonlara 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:

- Lower River Shannon SAC (Site Code 002165).
- Glenomra Wood SAC (site code 001013).

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 Lower River Shannon SAC (Site Code 002165), Glenomra Wood SAC (site code 001013).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.