



An
Bord
Pleanála

Inspector's Report

ABP322010-25

Development

For the demolition of existing cottage ruins and for the construction of a storey and a half dwelling. the development will also consist of a new wastewater treatment system, site entrance and all associated site works.

Location

Oatfield, Co Clare.

Planning Authority

Clare County Council.

Planning Authority Reg. Ref.

24410.

Applicant(s)

Donal O'Donoghue.

Type of Application

Permission.

Planning Authority Decision

Refused Permission.

Type of Appeal

First Party

Appellant(s)

Donal O'Donoghue.

Observer(s)

None.

Date of Site Inspection

3rd April 2025.

Inspector

Kathy Tuck.

1.0 Site Location and Description

- 1.1. The subject site, which has a stated area of c.0.1393ha, is situated at Oatfield, Co. Clare. Oatfield is located approximately c.11km to the east of Sixmile Bridge, Co. Clare.
- 1.2. The subject site currently comprises of a number of dilapidated structures and surrounded by large mature trees. The site is slightly elevated rising on the east-west axis. Access to the site is provided via a gravel/hardcore surface from the roadway which is in some disrepair and is separated by a watercourse.
- 1.3. The surrounding context of the site is comprised by agricultural and forestry landscape. There are a number of residential dwellings located approximately 1km to the south of the subject site.

2.0 Proposed Development

- 2.1. Permission is sought for the demolition of existing cottage ruins and for the construction of a storey and a half dwelling. The proposed dwelling provides for 3 no. bedrooms, Kitchen/living/dining room and a lounge and has a stated area of 166sq.mn.
- 2.2. The dwelling is rectangular in form which has maximum width of c.8.6m and a length of c.13.1m. The dwelling has been set back c.30m from the roadway and is finished with a pitched roof profile with a ridge level of c.6.08m.
- 2.3. Permission is also sought for a new wastewater treatment system, site entrance and all associated site works.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority issued a decision to refuse permission for the proposed development on the 6th February 2025 for the following 3 no. reasons:

1. The subject site is located in an Area of Special Control, where it is an objective of Clare County Council to permit a new single house for the permanent

occupation of an applicant who meets the necessary criteria as set out under Objective CD4.14 of the Clare County Development Plan 2023-2029 i.e. the applicant must have a demonstratable social or economic need to reside in the local rural area in which the site is located.

Based on the information submitted with the planning application, the Planning Authority is not satisfied that the applicant complies with the rural housing policy as set out in the County Development Plan. The proposed development would therefore contravene Objective CD4.14 of the Clare County Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development of the area.

2. It is an objective of Clare County Council under the provisions of Objective CDP 11.32(g) of the Clare County Development Plan 2023-2029 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 ≤ 10), EPA (2021).

Having regard to the EPA code of practice, the Site Characterisation Report received and the ground conditions on site, the Planning Authority considers the site to be unsuitable for the disposal of domestic effluent. The proposed development would therefore be prejudicial to public health, contrary to Objective CD11.32 of the Clare County Development Plan 2023-2029 and would be contrary to the proper planning and sustainable development of the area.

3. The proposed development would endanger public safety by reason of traffic hazard and obstruction of other road users due to the substandard width, alignment and surface quality of the minor road serving the site, the capacity of which is sufficient to serve local agricultural traffic only. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the Planning Authority notes the location of the site, details of the proposed development, local planning context, technical reports received, screening for EIA and AA determination and the planning history of the site.

The report noted that no documentation accompanied the planning application to demonstrate compliance with Objective CD04.14 of the County Development Plan and Part B of the application form was not completed. A conclusion was drawn based upon details submitted that the applicant does not comply with the rural housing policy and a recommendation to refuse permission was made.

Concern was further raised over traffic issues, and wastewater proposals.

3.2.2. Other Technical Reports

Environmental Section: Report recommends that permission be refused as it has not been demonstrated that there is adequate suitable soil in the area where it is proposed to locate the soils polishing filter and therefore proposal does not comply with the requirements of the 2021 EPA Code of Practice for Domestic Wastewater Treatment Systems.

3.3. Prescribed Bodies

None received.

3.4. Third Party Observations

None received.

4.0 Planning History

Subject site

PA Ref 24/342: Permission sought for the construction of a storey and a half extension to existing cottage. Works to the existing cottage will include the construction of a new roof and external walls. The development will also consist of a new wastewater treatment

system, site entrance and all associated site works. Application deemed invalid as following the inspection of the site that the description of development contained in the public notices was considered to be misleading and inadequate to inform the public as the development description refers to an extension to an existing cottage – the existing structure on site are in a collapsed ruinous state, with no recent use – the building does not constitute an existing cottage.

In addition, submitted site layout plan was not in accordance with Article 19 and 20 of the Planning and Development Regulations 2001 (as amended).

Within the Vicinity

ABP PA03.318782 Permission sought to develop a Windfarm and Ancillary Infrastructure within the townlands of Ballycr (North), Belvoir, Cloghera, Cloonsheerea, Cloontra, Cloontra East, Cloontra West, Crag, Derrynaveagh, Derryvinnan, Drumsillagh, Sallybank (Merri), Droomsillagh or Sallybank (Parker), Gortacullin, Knockbrack Lower, Knockshanvo, Kyle, Mountrice, Oatfield and Snaty, Co. Clare. Due to be decision on the 24th June 2024.

5.0 Policy Context

5.1. National Planning Policy

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

National Policy Objective 28 states:

Ensure, in providing for the development of rural housing, that a distinction is made between areas under urban influence, i.e. within the commuter catchment of cities and large towns and centres of employment, and elsewhere:

- 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.

- In rural areas elsewhere, facilitate the provision of single housing in the countryside based on 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

5.3.1. The subject site is located outside of the settlement boundary of Sixmilebridge in an area identified as being a rural area under strong urban influence within an area of special control as set out on Map 4B of Volume 1 of the County Development Plan 2023-2029. The subject site is also located within the Wester Corridor Working landscape.

5.3.2. Section 4.2.6 of the Clare County Development Plan 2023-2029 deals with Single Houses in the Countryside. It states that "the Council will ensure that development of the open countryside takes place in a manner that is compatible with the policy objectives of the NPF and the RSES, whilst ensuring the protection of key economic, environmental, biodiversity and cultural / heritage assets such as the road network, water quality and important landscapes."

The site is situated in a rural area under strong urban influence as identified on Map H7 of the County Development Plan. In these areas, the key objectives of the Council are:

- a) To facilitate the genuine housing requirements of persons with a demonstrable economic or social need to live in these rural areas.
- b) To direct urban-generated development to areas zoned for new housing development in the adjoining urban centres, towns, villages and clusters as identified in the County Settlement Strategy and to seek to enhance the vitality and viability of these settlements.

The 'Areas of Special Control' are:

- Rural Areas Under Strong Urban Influence.
- Heritage Landscapes.
- Sites accessed from Scenic Routes.

5.3.3. The following objectives are considered relevant to the subject site;

Objective CDP4.14 - New Single Houses in the Countryside within the 'Areas of Special Control'

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
- ii. 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.

Objective CDP4.17 - Replacement of a Substandard Habitable House in the Countryside

It is an objective of Clare County Council:

- a) To permit the proposed demolition of a habitable but substandard house and its replacement with a new single house, subject to normal site suitability considerations;
- b) To permit the replacement of a house damaged by fire, flood or other natural disaster subject to normal site suitability considerations;
- c) To require that any proposed replacement dwelling proposal takes into account the 'Bat Mitigation Guidelines for Ireland' produced by the NPWS; d) In circumstances where these sites are located in 'Areas of Special Control' not to apply the provisions of Objective CDP4.14 (i.e. 'Economic or Social Housing Need' requirement); and
- d) Notwithstanding the above, to protect the county's vernacular building stock from demolition where restoration and extension is an option (see Objective 16.4).

Objective CDP4.18 - Refurbishment of a Derelict House/Structure in the Countryside

It is an objective of Clare County Council: To permit applications for the refurbishment of a derelict house/structure in the countryside provided that :

- a) The external walls are substantially intact and are capable of being refurbished;
- b) The design of the proposal does not erode the siting and design qualities of the dwelling/ structure.
- c) The size of any extension takes account of the siting and size of the existing dwelling/structure.
- d) The design, scale and materials used in the refurbishment and/or extension are in keeping and sympathetic with the existing structure. Contemporary designs and finishes which constitute a modern interpretation of the traditional architectural vernacular of the area will also be considered on a case by case basis.

- e) Mature landscape features are retained and enhanced, as appropriate.
- f) Normal planning considerations including but not limited to road safety, amenities, public health, design, protected species (especially Lesser Horseshoe Bats and other bat species) shall take precedence over the 'principle' of encouraging such development, and in particular that for such developments alongside or directly accessed from National Roads, that the provisions of Objective CDP 11.13 shall apply. (Refer to Chapter 11).
- g) In circumstances where these sites occur in 'Areas of Special Control' the provisions of Objective CDP 4.14 (i.e. 'Economic and Social Housing Need' requirement) will not be applied except where the total or substantial demolition of the existing structure and the construction of a new dwelling are proposed.

- Table 4.1 Types of Rural Housing Development allowed on Suitable Sites

Chapter 11 – Physical Infrastructure.

Objective CDP 11.32 Wastewater Treatment and Disposal

It is an objective of Clare County Council:

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

Chapter 14 – Landscape.

Development Plan Objective: Western Corridor Working Landscape CDP14.3 -

It is an objective of Clare County Council:

- a) To permit development in these areas that will sustain economic activity, and enhance social well-being and quality of life - subject to conformity with all other relevant provisions of the Plan and the availability and protection of resources;
- b) To ensure that selection of appropriate sites in the first instance within this landscape, together with consideration of the details of siting and design, are directed towards minimising visual impact;

- c) To ensure that particular regard should be had to avoiding intrusions on scenic routes and on ridges or shorelines.

Developments in these areas will be required to demonstrate:

- i. That the site has been selected to avoid visual prominence
- ii. That site layouts avail of existing topography and vegetation to reduce visibility from scenic routes, walking trails, public amenities and roads
- iii. That design of buildings and structures reduces visual impact through careful choice of form, finishes and colours and that any site works seek to reduce the visual impact of the development.

5.4. Natural Heritage Designations

The subject site is not located within or adjacent to any natura 2000 sites. The subject site is located c2.43km to the south-west of the Gortacullin Bog NHA (Site Code 002401), 7.1km to the west of the Glenomra Wood SAC (Site Code 001013) and 3.438km south-east of the Danes Hole, Poulnalecka SAC (Site Code 000030).

6.0 EIA Screening

- 6.1. 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

This is a 1st party appeal against Clare County Council's decision to refuse permission. The grounds of appeal are summarised as follows.

- 1. Designation/Zoning

- Site located in an area under strong urban pressure – which is defined as to permit a single house for the permanent occupation of an applicant who meets the necessary criteria.
- There is an established residential cottage within the site along with outbuildings – site cannot be viewed as a greenfield site. Structures clearly marked on the Ordnance Survey Map submitted.
- Planning Authority considers applicant is seeking to demolish existing cottage and replace with a new dwelling similar in architectural style and scale – this has therefore prompted the Planning Authority to enforce the objectives of a site zoned in in an area under strong urban pressure.
- Zoning was a factor when considering the purchase of the site – applicant sought to ensure that any site would have an established residential settlement to ensure they would not be required to meet the criteria of the Rural Housing Policy.
- Previous permission PA Ref 24/342 – sought to redevelop existing cottage and construct an extension was invalidated by the Planning Authority as it was deemed that the existing cottage could not be considered as an existing dwelling due to its condition.
- On foot of the invalidation the applicant sought to demolish the dwelling and construct a new dwelling.
- Consider there is a discrepancy in the Planning Authorities interpretation of Objective CDP4.14 - upon information submitted with both applications – one application is deemed to not have a viable existing structure no site to redevelop and the other the PA accepted that there is an existing structure on site but due to its removal are classing the site greenfield placing the applicant in a situation upon which the required criteria cannot be met.
- Ask the Board to seek clarity from the Planning Authority as to their interpretation of objective CDP4.14.

2. Traffic

- Planning Authority considered access road to site is in a very bad condition and accessibility is poor.
- While it is accepted that the road is in a bad condition – site was previously serviced by this road. Applicant is not looking to develop a brand-new development on this site merely seeking to re-establish what was always there.
- Planning Authorities view is accepted – as per planning legislation applicant would be obliged to pay a financial contribution which could be utilised to improve the roadway as per the responsibility of the Local Authority.

3. Public Health

- Planning Authority consider site not suitable to accommodate a wastewater treatment system.
- Submitted site characteristic report states that the proposed wastewater treatment system would be deemed suitable.

4. Visual Amenity

- Planning Authority accepted the design scale and massing of the proposed dwelling as being acceptable.
- Therefore, proposal is not overdevelopment of the site.

5. Residential Amenity

- Planning Authority acknowledges that proposal will not impede upon any dwellings in vicinity due to its isolated location.
- Reference is made to the location of the subject site adjoining the proposed Oatfield windfarm development – Noted that this is still subject to a determination of the Board. If granted it will impact all development in the surrounding area.
- As per the zoning – it is an objective of Clare County Council to ensure that the area should be prioritised for development of one-off rural housing for applicants that meet the requirements as set out under Objective CDP4.14.
- Granting the wind farm would be contrary to the proper planning and sustainable development of the area.

6. Flood risk

- Subject site is outside Flood Zone A and B and there is no evidence site has ever been subject to a flood (or within the vicinity).
- The Planning Authority has concerns regarding the low-level water course that flows across the front of the site.
- Site Layout Plan – proposing that this watercourse would be removed through the use of installed soak pits at various located in throughout the site along with acro drain along the front entrance.
- Size of site can comfortably accommodate an many soakpits as required.
- Planning Authority failed to consider these specified soakpits.

7.2. Planning Authority Response

A response from the Planning Authority was received on the 27th March 2025 and can be summarised as follows:

- Strongly disagree with the assertion that the site has an established residential use. While it is acknowledged that the buildings on site may have historically been used as a dwelling any residential use has long ceased and the remaining structures are in an entirely ruinous condition.
- No discrepancy in the rural housing policy as contained in the Clare County Development Plan 2023-2029. The applicant reference P24/342 which was invalidated by the Planning Authority- details of such can be found on the planning register.
- The ruins on the site do not constitute a ‘substandard but habitable dwelling’ in accordance with CDP4.17 nor are the external wall substantially intact and capable of refurbishment as required under CDP4.18 as evidence that the development description associated with PA Ref 24/342 included the construction of a new roof and external walls on the existing cottage.
- Serious public health risk associated with the proposal as EPA standards in wastewater treatment cannot be achieved at this location.

- Appellant notes that Clare Co Co could use development contributions levied to this permission to upgrade the roadway serving the site. The contribution for a dwelling would be approximately €5,550 – 78% of which would be allocated to roads related schemes across the country. The upgrade of the road serving the site is estimated at €65,000.
- Comments relating to Oatfield Windfarm are noted.
- There is a substantial flow of water in the river channel which traverse the roadside boundary of the site – not appropriate to divert an active watercourse.
- Request the Board uphold the decision and refuse permission.

7.3. **Observations**

None Received.

8.0 **Assessment**

8.1. **Introduction**

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

- Rural Housing Policy.
- Traffic Issues.
- Public Health.
- Other Issues.

8.2. **Rural Housing Policy**

- 8.2.1. The appellant recognises that the subject site is located within an area under strong urban pressure where permission for dwellings will be for the permanent occupation of an applicant who meets the necessary criteria. It is contended that there is an existing dwelling on site along with a number of out- buildings, which were indicated

on the OSI map submitted, and therefore it should not be considered as a greenfield site. It is further asserted that the Planning Authority considers that the applicant is seeking to demolish existing cottage and replace with a new dwelling has therefore prompted them to enforce the objectives for a greenfield site zoned in an area under strong urban pressure.

- 8.2.2. The applicant further sets out that a previous application (PA Ref 24/342) was submitted which sought to provide for an extension to the existing dwelling on site was deemed to be invalid as the Planning Authority considered that the existing cottage could not be considered as an existing dwelling due to its condition. As such the applicant is now seeking permission to demolish the existing dwelling and construct a new one.
- 8.2.3. The main contention is that the appellant considers that there is a discrepancy in the Planning Authorities interpretation of Objective CDP4.14 of the Clare County Development Plan 2023-2029 due to the Planning Authority invalidating the first application (PA Ref 24/342) as it was deemed that the site did not have a viable existing structure to redevelop and then in the instance of this application the Planning Authority accepted that there is an existing structure on site but due to its removal are now classing the site as greenfield and placing the applicant in a situation upon which the criteria required to comply with the rural housing policy cannot be met.
- 8.2.4. The Planning Authority in their response have asserted that there is no discrepancy in their interpretation of the Rural Housing Policy. They state that the ruins on site, while they may have at one point in time historically been used as a dwelling, do not constitute a 'substandard but habitable dwelling' in accordance with Objective CDP4.17 of the Clare County Development Plan 2023-2029 and any residential use has long ceased. The Planning Authority further state that the remaining structures are in an entirely ruinous condition and that the external walls are not substantially intact and capable of refurbishment as required under Objective CDP4.18 of the Clare County Development Plan 2023-2029 and as such the applicant must demonstrate compliance with Objective CDP 4.14 of same.
- 8.2.5. Section 4.2.6 of the Clare County Development Plan 2023-2029 sets out policy in relation to single houses in the countryside. The site is located at Oatfield, Sixmilebridge, Co. Clare within the open countryside. Within the open countryside, the

Plan identifies two types of areas for rural housing: 1. Areas under Strong Urban Influence and 2. Remaining Rural Areas. As illustrated on Map 4B of the Plan the appeal site is located with the Area of Strong Urban Influence. Areas under Strong Urban Influence are also Areas of Special Control.

- 8.2.6. The main consideration in this appeal is whether or not the structures on site constitute an existing residential dwelling or not. Objective CDP4.17 of the Clare County Development Plan 2023-2029 allows for the replacement of a substandard habitable house in the Countryside. While reference is made to Objective CDP4.18 of the Clare County Development Plan 2023-2029 which relates to refurbishment of a Derelict House/Structure in the Countryside, given that the development is seeking to demolish the existing structure I do not consider it to be relevant in this instance.
- 8.2.7. From undertaking a site visit I note that there are currently 2 no. structures on site which are in a serious dilapidated condition. They are both partially roofed with corrugated iron sheets and the walls are partially lost. The structure indicated as being the existing dwelling is only partially roofed with the majority of the roof being covered with vegetation. I am therefore of the opinion that the structure is not habitable or a substandard house but rather simply a derelict structure. While I note that the appellant has stated that the structures clearly marked on the Ordnance Survey Map submitted, I note that all structures be it dwellings, agricultural sheds, commercial properties and so forth, are all indicated on OSI maps and this does not provide a justification or evidence that this structure was once a habitable dwelling. As such, with the lack of evidence provided by the 1st party appellant I consider that this structure has not been utilised as a habitable dwelling for a prolonged period of time.
- 8.2.8. I therefore agree with the assessment of the Planning Authority and consider that the proposal cannot be considered under the provisions of Objective CDP4.17 of the Clare County Development Plan 2023-2029 and that the appellant must therefore demonstrate that they have a viable rural need to live at this location and demonstrate compliance with Objective CDP 4.14 of the County Plan.
- 8.2.9. Objective CDP 4.14 states that applicants for a new single house for permanent occupation in Areas under Strong Urban Influence must meet either the economic or social criteria set out in the categories under that objective as detailed in Section 5.3 of this report above. The appellant has failed to complete part B of the Planning

Application form and has not submitted any documentary evidence to demonstrate compliance with Objective CDP 4.14 of the Clare County Development Plan 2023-2029 and as such they are not in compliance with the Rural Housing Policy and on this basis, I recommend that permission be refused.

8.3. Public Health.

- 8.3.1. The Site Characterisation Report submitted with the application identifies that the subject site is located in an area with a 'Locally Important Aquifer' (LI) where the bedrock vulnerability is 'Extreme'. A ground protection response of 'R2¹' is noted. Table E1 – Repone Matrix for DWWTS notes that where a R2¹ response is acceptable subject to normal good practice. Where domestic water supplies are located Nearby, particular attention should be given to the depth of subsoil over bedrock such that the minimum depths required in Chapter 6 are met and the likelihood of microbial pollution is minimised.
- 8.3.2. The trial hole depth referenced in the Site Characterisation Report was indicated at 1.7m with the water table being found at 1.4m. It was not indicated if any bedrock was found. The soil conditions found in the trial hole are described at 0.5m as gravely clay with cobbles and a few boulders. It is further indicated at 0.4m mottling was found.
- 8.3.3. The form indicates that 3 percolation test holes were dug to a depth of 400mm and pre-soaked. The form indicates that each of the test holes were soaked on the 11th April at 10.20. A second pre-soak was not undertaken. A T value/sub-surface value was not recorded. The report stated that *"water remained in the test hole after 1st pre-soaking. A treatment system is to be proposed due to an existing dwelling on site which will need the effluent to be treated, this will require a polishing filter made up totally of imported materials as no P or T test results were possible in the soil in situ."*
- 8.3.4. Chapter 6 of the EPA Code of Practice 2021 states that determining site suitability means checking that all the following requirements relevant to the site are met: the natural slope is $\leq 1:8$; all required minimum separation distances from the DWWTS can be met; all required minimum depths of unsaturated soil and/or subsoil are present on the portion of the site hosting the DWWTS; and percolation values of the soil and/or subsoil are within the acceptable ranges.

- 8.3.5. From assessment of the site survey submitted I note that the subject site slopes slightly by 1.12m from east to west which is less than 1:8. The proposed DDWTS is situated c.12m to the side of the proposed dwelling and c.25m from the proposed domestic well which are both in accordance with the requirements set out in Table 6.2 - Minimum separation distances from the entire DWWS of the EPA Code of Practice 2021. However, the assessor failed to provide any details of the P or T tests undertaken which is required under Chapter 6 of the Code of Practice.
- 8.3.6. The environment section of the Planning Authority considered that as the applicant is proposing to demolish the derelict building the site must be assessed as a greenfield site. It was concluded that there is no percolation on site as it was not possible for the assessor to carry out subsurface water testing and trial hole examination indicated mottling in the soil layer at 0.4m to the base of the trial hole and all of this together indicated that the subject site was not suitable to adequately treat wastewater.
- 8.3.7. I would also indicate to the Board at this point that Objective CDP 11.32- Wastewater Treatment and Disposal of the Clare County Development Plan 2023-2029 notes that *"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 ≤ 10), EPA (2021)."*
- 8.3.8. While I note the comments set out within the 1st Party Appeal they have not provided any further evidence to overcome the concerns raised by the Planning Authority and as such I concur with the assessment of the Planning Authority and note that as the applicant has failed to provide for P or T values they cannot demonstrate how any waste water treatment plant on this site could comply with the requirements of the EPA Code of Practice 2021.
- 8.3.9. Furthermore, I note that there is a discrepancy between the comments on population equivalent on the Site Characterisation Report as to what has been indicated on the floor plans submitted. The proposed dwelling provides for 3 no. double bedrooms which would equate to a population of 6 people while the Site Characterisation Report has been based on a 2-bed dwelling with a population of 4. The applicant has indicated that the proposed development will give rise to the equivalent of 600L of wastewater

to be treated. However, in accordance with Section 3.3 of the EPA Code of Practice 2021 it will in fact treat 900L of waste. Furthermore, under section 3.1 of the Site Characterisation Report the existing land use is indicated as 'existing derelict site' however further on through the report reference is made on numerous occasions to 'existing dwelling on site'.

- 8.3.10. Overall, having regard to the mottling in the soil layer at 0.4m to the base of the trial hole where it has been demonstrated by the applicant that percolation on site is not available and the number of discrepancies within the Site Characterisation Report submitted with the application I consider that the proposed waste water treatment plant fails to comply with the requirements of the EPA Code of Practice for Domestic Waste Water Treatment Systems (Population Equivalent ≤ 10), 2021, would be contrary to Objective CDP 11.32 (g) of the Clare County Development Plan 2023-2029 and if granted would be prejudicial to public health.

8.4. Traffic Issues.

- 8.4.1. The Planning Authority in their third reason for refusal considered that the access route serving the subject site was substandard in form to serve the dwelling and to permit the development would endanger public safety by reason of a traffic hazard. It was set out that the capacity of the existing road was only suitable to serve the local agricultural traffic.
- 8.4.2. The appellant in response to this accepted that the access road is in a very bad condition and accessibility is very poor but further noted that the site was previously serviced by this road when occupied by a dwelling. It was contended that the appellant is not looking for a brand-new development on this site but is merely seeking to re-establish what was always there and that in the event permission was granted the financial contribution generated could be utilised to improve the roadway as per the responsibility of the Local Authority.
- 8.4.3. The Planning Authority in response noted that a single dwelling would generate a development contribution c. €5,550 and the works required to upgrade the road would equate to an estimate of €65,000.
- 8.4.4. I note from undertaking a site visit that the section of the roadway serving the subject site is in disrepair and akin to the established agricultural use of the surrounding area.

I further note that there is a small cluster of 2 no. residential dwellings located c.792.8m to the south-east of the subject site. The roadway at this point is significantly improved but as soon as one passes these dwellings the road deteriorates significantly. There are no pass-way's between the existing dwellings to the south-east and the subject site.

- 8.4.5. As previously stated, the appellant has not provided any evidence to demonstrate that the structure on site was ever in residential use and as such, I don't accept the argument put forward that the road at one point in time served a residential dwelling. I therefore agree with the assertion of the Planning Authority and consider to grant permission for the proposed development would endanger public safety by reason of traffic hazard and recommend that permission be refused.

8.5. Other Issues.

8.5.1. *Other development within the area*

I note that the Appellant in their appeal has made reference to a wind farm development which is proposed on lands surrounding the subject site which is currently before the Board for consideration under ABP-318782-25. It is contended that it is an objective of Clare County Council to ensure that the area should be prioritised for development of one-off rural housing for applicants that meet the requirements as set out under Objective CDP4.14 and that granting the wind farm would be contrary to the proper planning and sustainable development of the area.

This appeal relates solely to the development included within the statutory notices associated with the application and I will not comment further on any other application before the board as to do so could be prejudicial to any outcome of that decision.

8.5.2. *Flooding*

The Planning Authority in their assessment recognised that the subject site is not located within either Flood Zone A or B and that the applicant indicated that there is no history of the site or surrounding area being subject to flooding. However, reference was made to the location of a watercourse which runs along the roadside boundary of the site. The Planning Authority stated that you cannot currently access the site without transverseing the water course on foot there is no vehicular access. No reference is

made to this water course on plans submitted and what amendments to the water course would be required to obtain vehicular access to the site.

The appellant states that the site layout plan submitted indicated the use of a number of soak pits being provided across the subject site through which the watercourse would drain. In addition, the appellant is proposing to provide a across drain along the front boundary of the site which will also drain the watercourse further.

This concern did not form part of the Planning Authorities reason for refusal but in their response to the 1st party appeal consider that there is a substantial flow of water in the water course and it is not considered appropriate to divert an active watercourse.

From assessment of the site and undertaking a site visit I found there to be an open water course which flows along the front boundary of the site which restricts vehicular access from the roadway onto the site. From a review of the mapping system available to me on [EPA Maps](#) on the 23rd May 2025 I note that this water course is not one which has been identified as a stream. I have examined this issue further under Section 10 of my report below where I have undertaken a Water Framework Screening determination.

I would agree with the comments of the Planning Authority. Furthermore, having regard to the outcome of the findings of the Site Characterisation Report as set out within section 8.3 of my report above, I note that there is no percolation on site as it was not possible for the assessor to carry out subsurface water testing. As such, I would not consider the response provided by the appellant to be acceptable.

The Board may consider to include this matter as a further reason for refusal but due to the substantive reasons for refusal already set out above within my report may also decide not to do so.

9.0 AA Screening

- 9.1. See Appendix 3 of this report for Appropriate Assessment Screening Determination. 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 Glenomra

Wood SAC (Site Code 001013), Danes Hole, Poulnalecka SAC (Site Code 000030) 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. 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 located Oatfield, Co. Clare. The proposed development comprises of the demolition of the existing shed and derelict dwelling on site and the construction of a single storey and a half-detached dwelling, a new wastewater treatment system, site entrance and all associated site works. No water deterioration concerns were raised in the planning appeal. The Blackwater (Clare_101) river flows approximate 283m to the west of the subject site. I note from undertaking a site visit that there is a watercourse which abuts the front boundary of the site which is formed with the roadway. This watercourse is not identified on any mapping system available to me.

10.2. I have assessed the proposed development and have considered the objectives as set out in Article 4 of the Water Framework Directive which seek to protect and, where necessary, restore surface & ground water waterbodies 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.

10.3. 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.

10.4. 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 Board uphold the decision of Clare County Council and refuse planning permission for the reasons set out below.

12.0 Reasons and Considerations

1. Having regard to the location of the site within "Area Under Strong Urban Influence" as identified with the Clare County Development Plan 2023 – 2029 and in an Area of Special Control where housing is restricted to persons demonstrating local need in accordance with the Objective CDP4.14 of the Clare County Development Plan 2023 - 2029, it is considered that the applicant does not come within the scope of the housing need criteria as set in the Development Plan for a house at this location. The proposed development, in the absence of any identified locally based need for the house, would contribute to the encroachment of random rural development in the area and would militate against the preservation of the rural environment and the efficient provision of public services and infrastructure. The proposed development would, therefore, be contrary to Objective CDP4.14 of the Clare County Development Plan 2023 – 2029 and would not be in keeping with the proper planning and sustainable development of the area.
2. Notwithstanding the proposal to use a tertiary treatment system and infiltration area and having regard to the location of a 'Regionally Important' aquifer which the site overlies that has a 'High' vulnerability classification, and in the absence

of detailed information to clearly demonstrate that the ground conditions within the site are suitable for the safe and adequate disposal of effluent, and the discrepancies noted within the Site Characterisation Form submitted the Board is not satisfied on the basis of the information on the file, that effluent arising from the proposed development can be satisfactorily treated and disposed of on the site in accordance with the EPA Code of Practice for Domestic Wastewater Treatment Systems (PE <10) (EPA 2021), and that the impact of the proposed development would not give rise to a risk of groundwater pollution. It is considered that the proposed development would be contrary to Objective CDP11.32 of the Clare County Development Plan 2023-2029, would be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

3. The proposed development would endanger public safety by reason of traffic hazard and obstruction of other road users due to the substandard width, alignment and surface quality of the minor road serving the site, the capacity of which is sufficient to serve local agricultural traffic only. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

Kathy Tuck
Planning Inspector

28th May 2025

Appendix 1

EIA Pre-Screening

An Bord Pleanála Case Reference	ABP-322010-25		
Proposed Development Summary	The proposed development comprises of the demolition of the existing shed and derelict dwelling on site and the construction of a single storey and a half detached dwelling, a new wastewater treatment system, site entrance and all associated site works.		
Development Address	Oatfield, Co. Clare		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)	Yes	X	
	No		
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			EIA Mandatory EIAR required
No	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	X	S. 5 P.2 10(b)(ii) construction of more than 500 dwelling units.	Preliminary examination required (Form 2)
5. Has Schedule 7A information been submitted?			

No	X	Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____ **Date:** _____

Appendix 2

EIA Preliminary Examination

An Bord Pleanála Case Reference	ABP- 322010-25	
Proposed Development Summary	The proposed development comprises of the demolition of the existing shed and derelict dwelling on site and the construction of a single storey and a half detached dwelling, a new wastewater treatment system, site entrance and all associated site works.	
Development Address	Oatfield, Co Clare	
The Board carried out a preliminary examination [ref. Art. 109(2)(a), Planning and Development regulations 2001, as amended] of at least the nature, size or location of the proposed development, having regard to the criteria set out in Schedule 7 of the Regulations.		
This preliminary examination should be read with, and in the light of, the rest of the Inspector’s Report attached herewith.		
	Examination	Yes/No/ Uncertain
Nature of the Development. Is the nature of the proposed development exceptional in the context of the existing environment.	The proposed development is for 1 no. dwelling houses. There are existing dwelling houses in the proximity of the site. The proposed development would not be exceptional in the context.	No
Will the development result in the production of any significant waste, emissions or pollutants?	The development would not result in the production of significant waste, emissions, or pollutants.	No
Size of the Development Is the size of the proposed development exceptional in the	The proposed development is 1 no. dwelling. The size is not exceptional.	No

context of the existing environment? Are there significant cumulative considerations having regard to other existing and / or permitted projects?	There would be no significant cumulative considerations.	No
Location of the Development Is the proposed development located on, in, adjoining, or does it have the potential to significantly impact on an ecologically sensitive site or location, or protected species? Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area, including any protected structure?	The development would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). 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.	
Conclusion		
There is no real likelihood of significant effects on the environment. EIA is not required.		

Inspector: _____

Date: _____

Appendix 3

Screening for Appropriate Assessment

Screening for Appropriate Assessment Test for likely significant effects				
Step 1: Description of the project and local site characteristics				
Brief description of project	Construction of a house and all associated site works.			
Brief description of development site characteristics and potential impact mechanisms	Permission is sought for the demolition of existing dilapidated dwelling and associated outbuildings and the construction of a dwelling house, new waste water treatment system and all associated site works. Water supply is from a private well. Surface water is proposed to discharge to soakpits. There are no water courses or other ecological features of note on the site that would connect it directly to European Sites in the wider area.			
Screening report	No Clare County Council Screened out the need for Appropriate Assessment			
Natura Impact Statement	No			
Relevant submissions	None			
Step 2. Identification of relevant European sites using the Source-pathway-receptor model				
The European sites potentially within a zone of influence of the proposed development are listed in the table below. No screening report was submitted by the applicant. The Planning Authority has considered the same 5 sites in their screening.				
European Site (code)	Qualifying interests¹ Link to conservation objectives (NPWS, date)	Distance from proposed development (km)	Ecological connections²	Consider further in screening³ Y/N

Glenomra Wood SAC (Site Code 001013)	Glenomra Wood SAC National Parks & Wildlife Service	7.1km	No direct connection	n
Danes Hole, Poulnalecka SAC (Site Code 000030)	Danes Hole, Poulnalecka SAC National Parks & Wildlife Service	3.4km	No direct connection – Possible indirect/use of habitats by mobile species	n

Step 3 Conclude if the proposed development could result in likely significant effects on a European site

I conclude that the proposed development alone would not result in likely significant effects on Glenomra Wood SAC (Site Code 001013) and the Danes Hole, Poulnalecka SAC (Site Code 000030). The proposed development would have no likely significant effect in combination with other plans and projects on any European sites. No further assessment is required for the project.

No mitigation measures are required to come to these conclusions.

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 Glenomra Wood SAC (Site Code 001013) and the Danes Hole, Poulnalecka SAC (Site Code 000030) 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 LPA

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