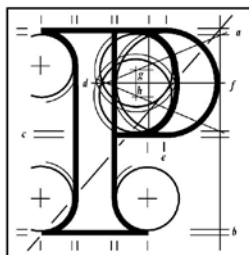


An Bord Pleanála



Inspector's Report

Development: Retention of existing temporary marquee structure and its continued use until October. Thereafter, erection of the marquee between March and October on a yearly basis at Fitz's Cross, Doolin, Co. Clare.

Application

Planning authority: Clare County Council
Planning application reg. no. 15/478
Applicant: Burke Shannon Burke Partnership
Type of application: Retention permission and permission
Planning authority's decision: Grant, subject to 6 conditions

Appeal

Appellants: Robert Shannon
Carol Spencer
Type of appeal: Third parties v Decision
Observers: None
Date of site inspection: 7th July 2016
Inspector: Hugh D. Morrison

Site

The site is located in Doolin, 6 km to the west of Lisdoonvarna and 6 km to the north north east of the Cliffs of Moher. Doolin Village has a scattered settlement form. The River Aille passes through this settlement and land generally rises to the south east. The site lies in the eastern corner of the junction formed by Fitz's Cross. The R479 forms two of the arms to this junction, i.e. the south eastern and the north eastern. The local road to the south west links the Cross to Doolin Harbour and ferry crossings to the Arran Isles. The remaining unclassified road to the north west crosses the River and serves holiday and residential accommodation, including the properties of the two appellants.

A considerable amount of new development has been built within the vicinity of Fitz's Cross. Thus, for example, two clusters of holiday homes have been built to the east of this Cross. The site itself has been developed to provide a three sided complex of single and two storey buildings, which are used to provide a hotel, a public house, eateries, a gift shop, and a tourist information office (total floorspace 2230 sq m). The principal elevation to this complex faces north west. The marquee, which is the subject of the current application/appeal, has been sited within the south eastern portion of the courtyard formed by the complex and so it effectively encloses what would otherwise be the open south easterly aspect to this courtyard.

The site is relatively flat and of regular shape. It extends over an area of 0.6724 hectares. The complex of buildings and the accompanying courtyard are cited in the north western and central portions of the site. The remaining south eastern portion is laid out to provide an access road and parking area, which is continuous with an adjoining car parking area to the north east that is accessed from the R479 to the north west. Adjoining land to the south east is initially level and then rises to the south east. The boundary between the site and this land is open. It accommodates the existing waste water treatment plant for the development on-site.

Proposal

The proposal consists of the following two elements:

- The retention of the existing temporary marquee and its continued use until October 2016, and
- Thereafter, the erection of this marquee on an annual basis between March and October.

The marquee is roughly "T" shaped in plan-view. Typically, it is laid out to provide a dining area, dance floor, and stage area in the "main stem of the T" with a bar area on the RHS and a kitchen/preparation area on the LHS. Windows are concentrated in the north western elevations, which overlook the courtyard. The main entrance is

also in this elevation and it is accompanied by a canopied entrance way. The marquee has an eaves height of 2250 mm and ridge heights of 3988 and 4570 mm. Its floorspace extends over an area of 460 sq m.

Planning authority's decision

Following receipt of further information, permission was granted subject to 6 conditions, several of which are summarised below:

- 1(b) (i) Retention permission is granted for the marquee up until 31st October 2016.
 - (ii) Permission is granted for the marquee to be erected between 1st March and 31st October from 2017 to 2021 only.
2. Details of the upgrade to the waste water treatment system to be submitted within 2 months and once agreed they are to be implemented within 3 months.
3. Details of the widening of the rear access road to be submitted within 2 months and once agreed they are to be implemented within 3 months.
4. Noise at the nearest noise sensitive locations shall not exceed the following:
 - (a) An LAeq, 30 minutes value of 55 dB(A) during the period 0800 to 2200 from Monday to Saturday inclusive.
 - (b) An LAeq, 30 minutes value of 45 dB(A) at any other time.
 - (c) Sound measurement to be undertaken at the expense of the developer.

Technical reports

- Roads Design Office: Following receipt of further information, while no objection is raised, attention is drawn to the need to widen the access road to the south east, to ensure that bus and car parking can occur on either side of it, and, to the south west on the R479, the proposed bus parking would overlap with a footpath and so it would not be feasible.
- Environment: Advises that the existing waste water treatment system is not adequately sized or capable of treating effluent to the required standard. If permission is to be granted, then a condition should be attached that requires that this system be upgraded within 6 months of any grant.

Grounds of appeal

(a) Robert Shannon

Attention is drawn to the unsolicited additional information that the applicant submitted to the planning authority. This information was not the subject of a public consultation exercise. It was stated as being a material consideration in the case planner's report. The appellant contests the content of this information.

The appellant operates a hostel and camp site near to the appeal site. He supports tourism development within Doolin provided it is compatible with the village's character and residential amenities.

Noise nuisance and sleep disturbance occur at the appellant's camp site as a result of the marquee's use, which, in addition to wedding functions that continue to 02.00 hours, entail 3 three day festivals. While the appellant did enter into an agreement with the applicant designed to mitigate the aforementioned impacts this has broken down.

The appellant does not consider that the proposal should be permitted as it is one that requires to be located in an area that is properly serviced and buffered from residential properties. He also contends that the description of this proposal is misleading as it does not adequately refer to the supporting infrastructure that the marquee relies upon. Such infrastructure comprises an open canopy, 2 portacabin stores, an internal access road, and 3 bus parking spaces. The development is also served by an existing waste water treatment plant and percolation area that lie on third party lands.

A review of the planning history of the site indicates that the scale of development on it within the context of the village has been an issue and the original development was permitted on the basis that the waste water treatment plant would be an interim measure in advance of the provision of a public sewerage system, which 15 years later is still outstanding.

The appellant sets out his grounds of appeal below.

Principle of development

- While the site is zoned for tourism, this should not be construed as meaning that all tourism development is necessarily acceptable. The marquee is highly visible from the R479 on approach to Doolin from the east. It is inherently out of character with the adjacent hotel buildings, which reflect the vernacular, and so it is anomalous and incongruous. On an occasional ad hoc basis, the marquee would be tolerable, but the proposal is for its erection throughout 8 months of the year during the height of the tourist season.

- The original site has contracted from 2.35 to 0.67 hectares and so the opportunity to properly service the proposal has been forfeited.

Residential amenity and noise

- The marquee is an acoustically weak structure that is sited within a noise reflective courtyard. The proposed noise mitigation measures would entail the installation of a sound absorbing barrier within the marquee and the use of a noise limiter. The former measure would be ineffective within the said courtyard and the latter measure would require music levels that would be too low to be workable. Accordingly, the marquee is no substitute for a purpose built function room.
- The appellant has submitted two noise reports. The first critiques the applicant's noise impact assessment and demonstrates that adverse noise impacts do arise from the marquee. The second demonstrates that over the weekend of 22nd/23rd April 2016, noise from the marquee exceeded the thresholds set out in condition 4 attached to the draft permission.
- The appellant's noise consultants have prepared a 3D model which demonstrates that the nearest noise sensitive receptors would experience noise levels considerably in excess of the aforementioned night time thresholds, i.e. 59.2 dB(A) and 51.2 dB(A) at locations to the south west and to the east of the marquee.

Traffic and car parking

- The marquee is capable of accommodating 300 people and yet the site only has 19 permitted car parking spaces. Following a request for further information, the applicant submitted a site layout plan that shows 104 spaces as being available to serve the hotel. Clare County Council's Roads Design Office critiques elements of this provision in its advice to the planning authority. Furthermore, additional car parking spaces are shown on adjoining land to the south east. However, this land is not owned by the applicant and so its use cannot be conditioned.
- The corollary of the foregoing is that on-street car parking is likely around Fitz's Cross, which could be a traffic hazard.

Treatment of effluent

- Attention is drawn to the advice of Clare County Council's Environment Section, which was reflected in the planning authority's requested for further information. Nevertheless, the capacity of the waste water treatment plant has not been disclosed.

- Attention is also drawn to Objective TOU8 of the draft Clare County Development Plan 2017 – 2023, which refers to the land around Fitz’s Cross. It states that “This site forms a boundary with the Cronagort Stream or Aille River which is currently at “Good Status” under the Water Framework Directive. Any future development at this site should ensure the achievement of at least good status and should not interfere with the achievement of the objective for this water body.” Given the present performance of the applicant’s waste water treatment plant, the fulfilment of this Objective is unobtainable.
- Condition 2 attached to the draft permission seeks to address the aforementioned poor performance. However, this approach is unsatisfactory as the subject plant lies on third party lands and so it should be the subject of a separate planning application. In advance of the upgrade of this plant, any development is premature and risks public health.

(b) Carol Spencer

Alteration of site boundaries without permission/scale of development

- Attention is drawn to the extent of the original hotel site and the siting of the waste water treatment plant (WWTP) within it and the contraction of this site under the current application to, amongst other things, exclude the WWTP. No application appears to have been made concerning this contraction. Accordingly, questions arise as to the relationship that exists between the site and the WWTP and car parking areas that lie out with the appeal site.
- Attention is drawn to the scaling back of the original hotel proposal and the refusal of a subsequent extension proposal. The marquee generates far more activity than that which would have arisen had this extension been permitted and built.
- In view of the contracted site and the planning history of the hotel, the marquee constitutes over development of the site that is out of character with the village and seriously injurious to amenity.

The structure by its nature is not suitable for the use(s) to be retained/continued.

- A marquee is defined as “a large tent generally used as a temporary building”. It is thus inherently unsuitable to be used as effectively, in the case of the subject marquee, an extension to the applicant’s hotel.
- The subject marquee was originally erected in c. 2011 and it was “doubled” in size in 2014. In practise, while the canvas is removed in the winter months, the structure remains insitu.

- The space enclosed by the marquee and the adjacent hotel, while permitted for use as a courtyard, is used as a beer garden that supplements the use of the marquee and yet it is not the subject of the current proposal.
- The marquee fulfils the role of a function room for the hotel but without the sound insulation properties that come with a permanent built structure. It is used to host c. 45 wedding receptions and 4 festivals, some of which run for 3 days at a time, annually. The numbers of people generated by these events, the hours that they operate to, and the fluidity of movement between the marquee, the beer garden, and the hotel lead to inordinate noise and other amenity impacts upon the village.

The development has/will continue to have negative impacts on the amenity of the area by reason of noise from this inappropriate use.

- Attention is drawn to the original noise report submitted by appellant (a). Attention is also drawn to the case planner's report, which is critiqued on the basis that it fails to adequately engage with this report in the assessment of noise. (Appellant (a) has commissioned a further report that advises on condition 4 attached to the draft permission).
- Appellant (b) testifies to the adverse impact of noise from the marquee upon the village since it was first erected in c. 2011. While such noise could be tolerated from say a single annual festival, the practically all year round exposure to such noise is unreasonable
- Under the tourism zoning of the site, licenced premises and discos/night clubs are normally not permitted. However, the marquee effectively operates as a licenced venue for late night dancing and so materially contravenes this zoning.

It has not been demonstrated that the development is not/will not be prejudicial to public health.

- The EPA's website advises that the River Aille is "at risk of not achieving good status" and so the proper management of its catchment, which includes the appeal site, is imperative.
- Appellant (b) contacted Irish Water (IW) with respect to the prospects for the provision of a public sewerage system within Doolin and she was advised that such provision in settlements where the IW has no existing assets do not qualify for funding under current investment criteria.
- The existing WWTP lies outside the appeal site and so it is unclear if it is within the control of the applicant.

- Notwithstanding the planning authorities enquiry with respect to the loadings of the WWTP, the applicant simply responded by stating that no increase would arise. However, this response disregards that the WWTP was provided to serve the hotel only and not the marquee, too. The planning authority failed to pursue this matter.
- Attention is drawn to the advice of Clare County Council's Environment Section. Attention is also drawn to a sink hole to an underground water course that lies to the south/south east of the WWTP, the presence of which may render any extension of the plant inappropriate.
- Notwithstanding condition 2 attached to the draft permission, the following concerns are expressed:
 - The use of the marquee generates substantial and intermittent loadings upon the WWTP.
 - The existing WWTP is not working properly and yet a 5 year permission has been granted for the marquee.
 - Making any upgrade the subject of a condition excludes the opportunity for public consultation.
 - Even with any upgrade, discharges of phosphate and nitrate into the River Aille would occur and there is no evidence to confirm that this would be acceptable. (The sea food café granted under application reg. no. 09/1318 is also served by this WWTP).

The development does/will endanger public safety by reason of traffic hazard

- No assessment of the number of car parking spaces that would be needed to serve the marquee has been undertaken.
- The applicant has not allowed for the fact that the aforementioned sea food café is served by up to 20 spaces identified for use in conjunction with the marquee.
- The car parking spaces on the land to the south east of the appeal site has not been properly advertised and so its inclusion within the current proposal is unacceptable. The planning authority's reliance upon Class 37 of Part 1 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2015, in this respect is misplaced. In any event it is unsurfaced and so not the subject of any formal layout. For all these reasons it should be the subject of a separate planning application.

- On-street bus parking to the south west of the site is inappropriate as it either obstructs the footpath and/or the carriageway.
- Overspill on-street car parking already causes traffic management issues/traffic hazard within the village and so the proposal should not proceed unless it can demonstrably be served by adequate off-street car parking.

Note: While appellant (b), along with appellant (a), did enter into a private written agreement with the applicant which sought to address the issue of noise, in practice, noise levels have continued to be an issue.

Responses

Appellant (a) has expressed his support for appellant (b)'s grounds of appeal.

The planning authority affirms its draft permission.

The applicant has responded. They begin by summarising the CDP's and LAP's tourism policies and objectives and outlining the community benefits of their hotel, which includes the marquee as an integral element, in terms of local economic benefits. Seven letters of support from local businesses are appended as is correspondence with the applicant's bank. They then respond to the above grounds of appeal as follows:

Land use zoning and planning policy

- The proposal would comply with the tourism policies and objectives of the CDP and the LAP. The site is zoned for tourism and the proposal would entail the enhancement and broadening of tourism within Doolin. The reasons and considerations given by the planning authority for its draft permission refer to this zoning and the existing hotel use of the site.

Legal and procedural matters

- The applicant confirms that the subject of the proposal is the marquee and that this structure and their hotel are sited within the site edged red that is in their ownership. Land Registry information pertaining to this ownership and that of adjoining lands accompanies the applicant's response.
- The applicant also confirms that they own the WWTP and that a wayleave runs between the hotel and the same, which exists in perpetuity. Likewise the parking areas identified in the site layout plan are in their ownership.
- A copy of the legal agreement between the applicant and the appellants also accompanies this response.

Residential amenity

- The applicant has responded to the critique of their noise impact assessment by commissioning a further report that takes account of this critique. This report contains a survey undertaken on 22nd/23rd April 2016, which concludes that the noise limits set in condition 4 of the draft permission could be adhered to.
- The applicant has undertaken/would undertake the following noise mitigation measures:
 - A sound level limiter, which operates to a threshold of 86 dB(A).
 - A noise barrier would be erected to the rear of the stage.
 - The sound level limiter would be fitted with a tamper proof system.
 - Speakers to be directed downwards onto the dance floor.
 - A continuous noise monitoring system would be installed around the dance floor.
 - All performers would be contractually obliged to use the hotel's sound system.

Even without all these mitigation measures the aforementioned survey recorded adherence to condition 4.

Design and visual impact

- The marquee is surrounded by the existing hotel on three sides. Accordingly, it is only visible from the south east, where within the context of the hotel buildings it reads as a single storey structure of white appearance that is similar to that of the finishes to these buildings. Accordingly, the marquee is not detrimental to the visual amenities of the area.

Parking and traffic

- Attention is drawn to the original hotel site. As the marquee is ancillary and subsidiary to this hotel, it benefits from any or all of the lands so depicted in this site.
- The overflow car parks are only used at peak times, e.g. during the Doolin Folk Festival.
- The total number of car parking spaces shown on the submitted site layout plan is 201. Thirteen of these spaces overlap with bus spaces and so if buses are present the number of car parking spaces contracts to 188. Under CDP

standards, 183 car parking spaces should serve the hotel and marquee. Thus, the identified provision meets the requisite standard.

- The applicant has submitted a revised site layout plan by way of response to condition 3 attached to the draft permission. This plan envisages the provision of 200 car parking spaces and 4 bus spaces off a widened on-site access road, which would be the subject of a one-way system for buses.
- Notwithstanding the foregoing, the hotel is marketed as a destination venue for weddings and yet, as it only has 17 bedrooms, guests stay in B n'Bs and guesthouses in the vicinity where typically car parking is provided. Similarly, during festivals, attendees typically stay in B n'Bs and guesthouses, too.
- The applicant's draw up Event Management Plans, which include traffic management plans, to ensure that traffic generated by festivals is capable of being properly managed.

Waste water treatment

- The WWTP lies within the original hotel site and it remains in the ownership of the applicant. This plant is licenced to receive 20 cubic metres of effluent per day. Records for the period 14th June 2009 to 6th January 2016 show that this figure has not been exceeded; in fact the maximum recorded is 16.7 cubic metres per day.
- The marquee is served by the existing toilets in the hotel and so the aforementioned records capture its use, too.
- The applicant acknowledges that the existing filtration system has been in operation since 2006 and that it needs to be upgraded. Discussions are on-going in this respect and the applicant fully intends to comply with condition 2 of the draft permission.

Responses by appellant (a) to the applicant's response

- Attention is drawn to the 3 three day music events that occur in the marquee annually. During the most recent one of these events (11th/12th June 2016), the appellant's noise consultant was in attendance. He noted that, notwithstanding the presence of a sound level limiter, the music being played was in excess of 86 dB(A). Furthermore, the sound system in operation was not that of the applicant's but a more powerful system. Recorded noise levels at three noise sensitive locations within the vicinity were consistently in excess of the 45 dB(A) level cited in draft condition 4.
- The appellant's noise consultant also critiques the applicant's noise consultant's report insofar as it fails to link-up wind speeds with noise

readings, reliance is placed upon bedroom windows remaining closed, and the noise mitigation qualities of an acoustic barrier proposed for the back of the stage are said to be 10 dB(A), whereas the appellant's noise consultant estimates that they would be 3dB(A).

- The economic benefits for the locality that applicant claims are questioned on the basis that Doolin drew visitors before the advent of the marquee, due to its scenery and proximity to other tourist attractions, and these factors persist.
- Attention is drawn to the letters of support for the marquee from other tourist providers. However, the appellant contends that in each case these providers reside over 1 km from the marquee. By contrast, the nearest 13 providers have not written in support.
- Sympathy is expressed for any financial difficulties that the applicant may be encountering. However, these cannot offset the noise that the local community suffers as a result of the operation of the marquee. The way forward is for the applicant to build a permanent properly noise insulated function room/concert venue.

Planning history

Site

- 00/1616 & PL03.125051: Construction of a hotel development consisting of 16 bedrooms, pub, restaurant, café, tourist information office, 2 commercial units, craft shop, children's play area, landscaped courtyard, tennis court, associated services and storage building, sewerage treatment system and percolation area, associated site works and connections to existing services: Permitted on 25th July 2000.
- 02/1488: Revisions to craft shop and construction of a manager's house: Permitted.
- 03/1016 & PL03.203956: Construction of 28 bedroom extension and associated site works to hotel: Refused at appeal for the following reason:

Taken in conjunction with existing and permitted development, it is considered that the proposed development, by reason of its nature, location and excessive scale, would represent overdevelopment of this site, would be out of character with the existing pattern of development in the vicinity and would, therefore, seriously injure the residential and visual amenities of the area and be contrary to the proper planning and sustainable development of the area.

- 09/1318: Change of use from existing commercial craft shop to sea food café and construction of kitchen extension: Permitted.
- R14/32: Referral with respect to subject marquee, which was declared to be development that is not exempted development.
- Pre-application consultation.

Adjoining site to the north east

- 04/2765: Construction of 8 holiday units with administrative office, proprietary waste treatment system, percolation area and ancillary works: Refused on the grounds of material contravention of LAP objectives and haphazard and non-integrated development that would prejudice the comprehensive development and servicing of adjoining lands.
- 04/2766: Construction of 8 holiday units with administrative office, proprietary waste treatment system, percolation area and ancillary works: Deemed withdrawn following non-response to request for clarification of further information.

Development Plan

Under the Clare County Development Plan 2011 – 2017 (CDP), Doolin is identified as a large village and the site is shown as lying within the settlement boundary around it. The R479 to the south east of this site is identified as a scenic route. Doolin lies on the interface between Landscape Character Types 2 and 3, i.e. Coastal Farmland and Islands and Coastal Limestone Slopes. It likewise lies on the interface between Landscape Character Areas 1 and 3, i.e. Burren Uplands and Cliffs of Moher and Lahinch.

Under the North Clare Local area Plan 2011 – 2017 (LAP), the site is identified for tourism within the aforementioned settlement boundary.

Assessment

I have reviewed the proposal in the light of the CDP, LAP, relevant planning history, and the submissions of the parties. Accordingly, I consider that this application/ appeal should be assessed under the following headings:

- (i) Legalities,
- (ii) Land use and planning history,
- (iii) Visual amenity,
- (iv) Parking,

(v) Noise,

(vi) Water, and

(vii) AA.

(i) Legalities

1.1 Appellant (a) expresses concern that, at the application stage, the applicant submitted unsolicited additional information that was not the subject of a public consultation exercise and yet the planning authority gave weight to the same in its decision making.

1.2 I note that the discretion as to whether to undertake a public consultation exercise, in the circumstances thus described, rests with the planning authority. I note, too, that the appellant has had the opportunity to comment on this information at the appeal stage and that the current proposal is now the subject of a *de novo* assessment.

1.3 Appellant (a) draws attention to the description of the proposal, which he considers to be deficient, as it does not refer to the supporting infrastructure that the marquee relies upon. Both appellants (a) and (b) draw attention to the current application/appeal site which is smaller than the site of the parent permission and so excludes parking areas and the on-site waste water treatment plant (WWTP).

1.4 The applicant has responded to these points by stating that, as the use of the marquee is ancillary and subsidiary to the use of their hotel, the site boundary includes this hotel and adjoining buildings and land. They also submitted documentary evidence to confirm that the parking area and site of the WWTP lie within the ownership of two of the three partners in the partnership that constitutes the applicant.

1.5 I accept the applicant's depiction of the relationship between their hotel and the marquee. I consider that the applicant has sufficient interest in the parking area and WWTP to allow these items to be conditioned, as needs be. I, also, consider that the supporting infrastructure that appellant (a) cites can be sub-divided into that which specifically supports the marquee, e.g. the canopied entrance and the 2 portacabin stores, and that which supports, not only the marquee, but the applicant's hotel, too, e.g. the existing parking area to the north east and the WWTP. The former can reasonably be read as being subsumed in the description "marquee" and the latter can reasonably be read as being subsumed in the applicant's hotel, which the marquee is, in practise, an extension of.

1.6 A comparison of the parent permission for the site and the physical works that have occurred on the ground shows that an additional access road has been

constructed off the R479 to the rear of the marquee. From the evidence before me, I am unable to confirm that this road has been authorised for planning purposes. Insofar as this road would both provide parking spaces itself and afford access to the overflow parking area to the south east of the site depicted on drawing no. 14826/P/002/P5, I am concerned that its planning status has not been established.

1.7 The aforementioned parking area is also raised by appellant (b). She expresses concern that the planning authority has placed undue reliance upon Class 37 of Part 1 of Schedule 2 to Article 6 of the Planning and Development Regulations, 2001 – 2015, in its approach to this parking area. I concur with this concern. The use of this land for overflow parking was not envisaged by the parent permission and so it represents a new use for the same. The said Class should not be construed as authorising such parking *per se*. Thus, appellant (b) is correct in stating that this use should be the subject of a separate application.

1.8 I, therefore, conclude that while there are no legal impediments to the Board proceeding in the normal manner with an assessment and determination of the majority of the current proposal, clarification of the planning status of the access road to the rear of the marquee is required and the proposed use of land to the south east of this road as an overflow parking area would require to be the subject of a separate application.

(ii) Land use and planning history

2.1 The CDP's settlement strategy categorises Doolin as a large village, wherein Objective 3.5 seeks to ensure that "future growth is balanced and sustainable and is relative and appropriate to their scale, size and character." The LAP zones the site for tourism and an accompanying land use matrix indicates that hotels are permissible in principle within this zone.

2.2 Appellant (b) contends that the use of the marquee is, in practise, akin to that of a licensed premises and a disco/night club, both of which are not normally permitted in a tourist zone. Elsewhere, both appellants refer to the marquee as fulfilling the role of a hotel function room and they suggest that the way forward is to build such a room. The applicant has responded by emphasising the established hotel use of the site, which is in line with the policies and objectives of the CDP and the LAP.

2.3 The applicant reports that the use of the marquee is typically either for festivals or for wedding receptions. I consider that the former use is more recognisably a tourism use than the latter.

2.4 Clearly, hotels typically incorporate licensed premises and their function rooms may facilitate dancing and concerts. I, thus, read the land use matrix as

distinguishing between the range of uses that are comprised within hotels and the stand-alone uses of licensed premises and a discos/night clubs. Accordingly, as the marquee fulfils the role of a function room for the applicant's hotel, I do not consider that it contravenes the tourism zoning of the site.

2.5 The planning history of the site indicates that the parent permission (00/1616 and PL03.125051) authorised the development of, amongst other things, a 16 bedroom hotel on the site. A subsequent application (03/1016) to add a 28 bedroom extension was refused at appeal (PL03.203956) on the grounds that it would be over development, it would be out of character with the existing pattern of development, and it would thus be seriously injurious to amenity. A comparison of the context of the site that exists today with that which prevailed at the time of this decision indicates that considerable development has taken place in the intervening period, e.g. two clusters of holiday homes have been built to the north east.

2.6 Appellant (b) reports that the marquee was first erected in c. 2011 and that it was "doubled" in size in 2014. While the canvas is removed in the winter months, the structure remains insitu throughout the year. Thus, this unauthorised structure has in its original and extended form been in existence for 5 and 2 years, respectfully. The planning authority declared it to be development that is not exempted development under R14/32.

2.7 I conclude that the marquee, as an extension of the applicant's hotel, is a permissible use of the site under its tourism zoning and that the planning history of the site illustrates that both further development of the site has previously been resisted and the marquee requires planning permission.

(iii) Visual amenity

3.1 The site is located at Fitz's Cross, around which one of the groups of buildings that makes up Doolin Village is clustered. The main approach to this Village is along the R479 from the R478, which runs between Lahinch and Lisdoonvarana. The site occupies a prominent position within the vista that opens up to users of the R479 as they approach the said cluster. This regional road is designated a scenic route. In this respect, the CDP's Objective 16.6 seeks "To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impacts."

3.2 Under the parent permission for the site, it has been developed to provide an attractive complex of buildings that contribute along their north western elevation to a stretch of modern streetscape that maintains an appropriate scale of built form and traditional design. As originally envisaged, this complex would

have surrounded a courtyard on three sides. The remaining south eastern side would have been left open and it is this side that presents to the main approach to the Village along the R479. However, the marquee has been erected over the south eastern portion of this courtyard and so it encloses the same. This marquee forms a central part of the vista that road users encounter on-approach.

- 3.3 The appellants contend that the marquee is out of character with the well-appointed group of buildings described above. They state that, while it might be tolerable on a temporary intermittent basis, its presence throughout the entirety of the tourist season is inappropriate visually.
- 3.4 The applicant has responded by stating that the marquee is read within the context of the surrounding group of buildings, which would both contain it visually and complement its light coloured finish. They thus contend that it is compatible with visual amenity.
- 3.5 During my site visit, I observed that the site indeed occupies a gateway position to Doolin Village. Thus, the topography of the R479 opens out on-approach to reveal a vista that conveys a first impression of the Village that includes the centrally sited marquee within it. While this marquee lacks the aesthetic quality of the surrounding buildings, it is contained by these buildings and the similarity in colour serves to further reduce its visual impact. That said, I do concur with the appellants position that, as is normally the case, the marquee would be more acceptable visually if it were to be insitu on an occasional basis only.
- 3.6 During my site visit, I also observed that an access road, which was not authorised by the parent permission, has been constructed to the rear of the group of buildings on the site and that this road connects with the originally permitted parking area to the north east. Buses park in parallel along this road and their visual impact within the aforementioned vista is striking.
- 3.7 Under the first heading of my assessment, I raise the issue that this road may not have been authorised for planning heretofore and that it has not been identified for retention under the current proposal. Notwithstanding these matters, I consider that the aforementioned aesthetic concern could be alleviated if buses were to be parked in the parking area to the north east, which was explicitly authorised under the parent permission.
- 3.7 I conclude that the marquee detracts from the visual appeal of the surrounding buildings on the site and so it should only be countenanced on an occasional basis. I also conclude that parallel bus parking to the rear of the marquee is highly inappropriate visually and so it should be provided for exclusively in the parking area to the north east of the site.

(iv) Parking

- 4.1 Under the parent permission for the site (00/1616 and PL03.125051) and the permission for the adjacent craft shop/manager's house (02/1488), to the north east, a total of 40 car parking spaces were authorised. The majority of these spaces are on-street with a minority off-street accessed by means of a new road between the applicant's hotel and the said craft shop. These spaces were envisaged as being shared between the various uses of the site, which includes the hotel, and this craft shop.
- 4.2 Under the first and third headings of my assessment, I have referred to the addition of a road from the R479 that runs to the rear of the marquee to the parking area to the north east of the site and the impediments that exist as to its inclusion within the current proposal and hence its assessment. Likewise, the overflow parking area that is proposed for land to the south east of the site, as a new use of this land, faces the same impediments.
- 4.3 Notwithstanding the foregoing paragraph, the planning authority sought to address the issue of parking by means of a request for further information. The applicant responded by submitting site layout plan (drawing no. 14826/P/002/P5), which shows the existing parking area to the north east and the proposed one to the south east.
- 4.4 The appellants express concern that the use of the marquee generates traffic that leads to overspill parking in Doolin Village, which is the cause of congestion and which is a potential traffic hazard. The applicant has responded by submitting calculations, which demonstrate that the combined parking areas and the pre-existing on-street parking would meet the relevant standards in the CDP.
- 4.5 I conclude that it would be premature to assess parking provision as the ambit of the current proposal is insufficient to include all the areas identified for such provision in the site layout plan (drawing no. 14826/P/002/P5).

(v) Noise

- 5.1 The marquee is clad with light-weight materials and so, all parties agree either explicitly or implicitly, that it is an acoustically weak structure. The appellants draw attention to the siting of this marquee within a courtyard, wherein sound is reflected off the surfaces of the surrounding built elevations. They also draw attention to the use of the courtyard as a beer garden in conjunction with the hotel and the marquee and the fluidity of movement through this space and between these structures that typically occurs when the marquee is in use.
- 5.2 The appellants state that noise from the marquee, which can continue until 02.00 hours, causes disturbance to the surrounding locality, particularly during anti-

social hours. The appellants also state that, while occasional noise would be tolerable, the frequency and duration of the use of the marquee throughout the period between March and October each year leads to an unacceptable exposure to disturbance.

5.3 Table 4.1 of the WHO Guidelines for Community Noise 1999 cites 45 dB(A) LAeq as the relevant threshold for the minimisation of night time disturbance to dwelling houses. The parties interact with this threshold in the submitted noise reports and critiques of the same, which I discuss below, and it is cited in the planning authority's draft condition 4.

5.4 The applicant submitted a noise impact assessment (NIA) dated February 2016. It records noise levels on the night of 16th/17th October 2015, during which a band played in the marquee, weather conditions were still, and a noise limiter prevented sound levels above the dance floor from exceeding 95 dB(A). Instances wherein the 45 dB(A) LAeq threshold was exceeded occurred at each of the noise sensitive locations examined, apart from one, O'Connor's B n'B and camp site. However, the applicant assumes that the noise insulation properties of the buildings concerned would reduce the noise level within these buildings to below the threshold. They also cite the absence of recognised noise level standards for camp sites.

5.5 The applicant undertook a pilot study on 25th January 2016. During this study the noise limiter was re-set to 86 dB(A) and speakers were directed downwards. The resulting reduction of 9 dB(A) was applied to the previously obtained readings and so the applicant predicts that in each of the noise sensitive locations bar one levels would be below the threshold. The exception would be the unfinished building immediately to the south west of the site. The applicant proposes to install an acoustic barrier to the rear of the stage at the south western end of the marquee. This barrier would attenuate noise by up to 10 dB(A).

5.6 Appellant (a)'s grounds of appeal are accompanied by an acoustic review of the proposal dated 18th March 2016 and a noise assessment of noise breakout from the marquee dated 26th April 2016.

5.7 The former document critiques the applicant's NIA. In doing so the following points are made:

- The absence of noise sensitive locations nearer to the site from the NIA is raised as an issue.
- Baseline ambient noise readings for a night during which the marquee is not in use were not obtained.
- Weather conditions were reported in a cursory manner.

- The NIA dismisses the effect of noise on the two camping sites in the locality.
- Noise limiters are of value in built function rooms. In marquees they are an inadequate response to the challenge posed by such acoustically weak structures.

Appellant (a) maps the applicant's noise readings onto a 3-D model of the locality. The resulting noise contours illustrate that, not only the night time threshold, but also the daytime one of 55 dB(A)LAeq would, on the basis of these readings, be exceeded at nearby noise sensitive locations.

Appellant (a) also critiques the applicant's proposed mitigation measures. He questions whether the re-direction downwards of speakers would have any significant effect, he considers that the lower setting of the noise limiter would be unacceptable in practise to performers and their audiences, and he estimates that the proposed acoustic barrier would attenuate noise by only 3 dB(A).

5.8 The latter document contains recorded noise levels at the nearest noise sensitive locations to the site over the night of 22nd/23rd April 2016. At two of the three of these locations the increase in noise attributable to the use of the marquee led to a significant increase in noise levels, in excess of the threshold and so the applicant expresses no confidence in the applicant being in a position to adhere to draft condition 4.

5.9 The applicant has responded to the appellants' noise concerns. They respond to the critique of their NIA as follows:

- The noise sensitive locations selected were representative of the locality.
- Baseline readings were given insofar as these were distinguished from the readings taken when the band was playing.
- The weather was recorded throughout the night (cf. measured wind speed data tables).
- The two camp sites were not ignored but included within the noise recording survey.

5.10 The applicant comments on the appellant (b)'s noise assessment of noise breakout document. Attention is drawn to the finding that the appellant's own property is the one at which the threshold noise level was not exceeded. His commentary, to the effect that this may have been due to the wind direction on the night, is addressed by means of a wind rose for Doolin, which shows that an ESE wind would be required before his property would be directly affected and yet this only occurs 5.2% of the time.

- 5.11 Attention is also drawn to the other two noise sensitive locations. One is the site of holiday homes where fitted double glazing reduces noise levels by in excess of 30 dB(A), while the other is an unfinished building immediately to the south west of the site. The aforementioned acoustic barrier, which has yet to be installed, would assist in reducing noise levels at this property.
- 5.12 Additionally, the applicant offers to install a continuous noise monitoring system adjacent to the marquee's dance floor, the readings from which could be shared with interested parties on a periodic basis in a bid to provide reassurance.
- 5.13 Appellant (b) has responded to the applicant's response to his grounds of appeal by submitting the findings of a further noise survey that was conducted during the night of 11th/12th June 2016. He reports that, while the noise limiter was switched on, it was not set at 86 dB(A) as the music was being played at in excess of 90 dB(A) without interruption. He also reports that contrary to the applicant's undertakings the sound system in use was not the in-house one, but a more powerful one installed by the performers. Noise readings at the three previously utilised noise sensitive locations were taken and in each case the threshold was consistently exceeded.
- 5.14 The aforementioned latest noise survey is accompanied by a response to the applicant's commentary on appellant (b)'s earlier noise survey. The following points are made.
- With respect to the appellant's own property, the applicant over relies upon the influence of wind direction.
 - With respect to the holiday homes, the applicant fails to acknowledge that householders can expect to leave windows open and still experience noise levels within the threshold.
 - With respect to the unfinished building, disagreement persists over the value of the proposed acoustic barrier and this is augmented by the observation that the band playing on the said night was at the north eastern end of the marquee rather than the south western end.
- 5.15 During my site visit, I gained the impression that part of the appeal of Doolin as a tourist destination is the measure of peace and quiet that its rural setting affords. I, therefore, consider that the introduction of uses with the potential to generate noise and create disturbance within this setting needs to be limited. The marquee represents such a use and so I consider that there is an onus upon the applicant to demonstrate that the noise thresholds set out in draft condition 4 would be readily achievable.

- 5.16 From the evidence before me, the applicant is neither in a position to consistently do this nor is there a reasonable prospect of them being in such a position as a result of the implementation of outstanding mitigation measures. In this respect, I note the noise survey findings that indicate that 45 dB(A)LAeq noise levels would elude nearby residential properties and I note, too, the absence of any meaningful noise attenuation measures available to campers. Where campers could be anticipated to be in attendance at festivals hosted in the marquee such noise levels may be considered tolerable. However, where they are not involved in events hosted in the marquee this is unacceptable.
- 5.17 In the light of the foregoing paragraph, I consider that to accede to the continued use of the marquee would imperil the key quality of relative peace and quiet afforded by Doolin that attracts tourists, while also causing unjustifiable disturbance to existing residents and visitors.
- 5.18 I concur with the appellants in their view that the occasional use of the marquee would be tolerable. As note above in paragraph 2.3 of my assessment, its use for annual festivals would be more in keeping with Doolin's status as a tourist destination than its regular use for wedding receptions. Thus, if the applicant wants to continue to host wedding receptions on a regular basis, then the appropriate course of action would appear to be for them to apply for planning permission for a permanent built function room extension to their hotel.
- 5.19 I, therefore, conclude that the retention of the marquee would be inappropriate as the noise generated by its frequent use is incompatible with the amenities of the area that residents and visitors are entitled to expect in Doolin.

(vi) Water

- 6.1 The completed application forms state that the applicant's hotel is connected to the public water mains and that surface water and waste water are dealt with by means of, variously, an existing on-site drainage system and an existing on-site treatment system. A note is added that the use of the marquee leads to no extra demand on these hotel services.
- 6.2 Under a request for further information, the planning authority raised with the applicant the question of the loading of the existing waste water treatment plant (WWTP). They responded by stating that their engineer reports loading levels to Clare County Council, as the licencing authority, under the terms of their discharge licence.
- 6.3 The appellants express concern at the unforthcoming nature of the aforementioned response. They also express concern that the parent permission

was granted in the expectation that a public sewerage system would be installed and so the hotel's reliance upon its WWTP would be for a temporary period only. However, 15 years later this system is still outstanding and appellant (b) reports that, from correspondence that she has had with Irish Water, they have no plans to install such a system.

6.4 Following the receipt of further information, Clare County Council's Environment Section advised that the WWTP does not appear to be adequately sized for the development or to be capable of treating effluent to the required standard. The WWTP discharges to the public surface water drainage network, which in turn discharges to the River Aille. The latter discharge has been observed on many occasions as being cloudy and, downstream from its discharge point, there is a significant scum of sewage fungus on the river bank. He also advises that the peat filter in the WWTP has been flooded/saturated since last summer and so is inoperative and that it is visually intrusive and the source of mal odours on hot and humid days.

6.5 At the appeal stage, the applicant has stated that the WWTP is licenced to receive 20 cubic metres of effluent per day and that records for recent years indicate that the maximum daily loading occurring, in practise, was 16.7 cubic metres and that the average was 12.1 cubic metres. They state that, as the marquee is served by toilets in the hotel, these figures do take account of its use. During my site visit, I observed that the kitchen/preparation portion of the marquee includes a dish washer. Confirmation that waste water from this facility drains to the WWTP has not been provided.

6.6 The planning authority's draft condition 2 addresses the need to upgrade the WWTP. The applicant acknowledges that such an upgrade is necessary as the existing filtration system has been in operation since 2006. The applicant's engineer reports that he is in discussion with Clare County Council pursuant to this condition.

6.7 The appellant (b) expresses concern that, if the said upgrade requires an extension to the WWTP, then this may be difficult due to the presence of a sink hole to the south/south east. She also expresses concern over the pattern of substantial and intermittent loadings and what the ultimate discharge to the River Aille may mean for water quality.

6.8 In the light of the above comments, I consider that there are a considerable number of unanswered questions with respect to the WWTP and the scope that exists to ensure that it can operate satisfactorily and in a manner that would not lead to a deterioration in the water quality of the River Aille. In these circumstances, I consider that it would be premature to grant retention

permission/permission for the marquee, which would necessarily assume that these questions could be answered satisfactorily.

6.9 I conclude that the applicant has yet to demonstrate that any upgrade to the WWTP would be capable of serving the marquee in a satisfactory manner.

(vii) AA

7.1 The site does not lie within a Natura 2000 site. The nearest such sites are Black Head-Poulsallagh Complex SAC (IE000020), which lies 1.5 km to the west, and the Cliffs of Moher SPA (IE004005), which lies 2.3 km to the south west.

7.2 As discussed under the sixth heading of my assessment, the WWTP discharges via the public surface water drainage network to the River Aille, which flows into the Atlantic Ocean at two points between the aforementioned Natura 2000 sites. There is thus a source – pathway – receptor route between this WWTP and these sites.

7.3 As further discussed under the sixth heading, there is an outstanding question over the compatibility of the said WWTP with the maintenance of water quality in this River. Nevertheless, given the separation distances involved and the intervening environment of the Atlantic Ocean, I do not consider that the proposal has a significant effect upon the Conservation Objectives of the aforementioned Natura 2000 sites.

7.4 Having regard to the nature and scale of the proposal, the nature of the receiving environment, and the proximity to the nearest Natura 2000 sites, no appropriate assessment issues arise and it is not considered that the proposal has or would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

Recommendation

In the light of my assessment, I recommend that the proposed retention of the existing temporary marquee structure and its continued use until October, and, thereafter, the erection of the marquee between March and October on a yearly basis at Fitz's Cross, Doolin, Co. Clare, be refused.

Reasons and considerations

1. The marquee is sited to the rear of an attractive complex of buildings, which include the Hotel Doolin. This marquee is inherently of a lesser aesthetic quality than these buildings and yet it is proposed to remain insitu until October 2016 and then between March and October of subsequent years. Furthermore, it occupies a central position in the vista available to road users

accessing Doolin Village along the R479 from the south east, an identified scenic route in the Clare County Development Plan 2011 – 2017. Accordingly, the marquee is and would continue to be seriously injurious to the visual amenities of the area and thus its retention on the basis proposed would be contrary to the proper planning and sustainable development of the area.

2. The applicant has failed to demonstrate that the access road from the R479 to the south east of the marquee has the benefit of planning permission. Furthermore, they have failed to include the land to the south east of this road, which is proposed for a new use as an overflow car park, within the red edge of the application site. Accordingly, the Board is not in a position to fully assess the access and car parking arrangements envisaged as serving the marquee. In these circumstances, it would be premature to grant permission for the proposed retention and continued use of this marquee and so to do so would be contrary to the proper planning and sustainable development of the area.
3. The use of the marquee is a source of significant noise that causes demonstrable disturbance within the surrounding area, especially at anti-social hours, and so its retention would be seriously injurious to the amenities of properties in the vicinity and it would militate against the relative peace and quiet that Doolin affords as an established tourist destination. Accordingly, the proposed retention of the marquee would be contrary to the proper planning and sustainable development of the area.
4. The use of the marquee is reliant upon the existing waste water treatment plant that serves the Hotel Doolin and which discharges via the public surface water drainage network to the River Aille. This plant needs to be upgraded and yet the applicant has not demonstrated that any upgrade would be compatible with the achievement of water quality objectives for this River and the maintenance of public health. In these circumstances, it would be premature to grant permission for the proposed retention and continued use of the marquee and so to do so would be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Inspector
25th July 2016