



An
Bord
Pleanála

Inspector's Report PL16. 246885

Development	Retain alterations to dive centre, construct extension for store room and change use of first floor to café at Purteen Harbour, Keel East, Achill, Mayo
Planning Authority	Mayo County Council
Planning Authority Reg. Ref.	15/466
Applicant	Joseph Carey
Type of Application	Permission
Planning Authority Decision	Grant permission
Appellant	Michael McNamara
Observers	None
Date of Site Inspection	11 th October 2016
Inspector	Stephen J. O'Sullivan

1.0 Site Location and Description

1.1. The site is on Achill Island near the quay at Purteen Harbour. It has a stated area of 680m². A two -storey building stands upon it which is used in connection with dive training. The site does not extend to the metalled road serving the harbour, with a gap of c3m remaining between them. That road connects with the R319 c720m to the north between Doagh and Keel where there is an established line of development. There is less development in the vicinity of the site. There are two single storey structures on the land to the north. The outfall pipe from the public wastewater treatment plant runs to the rear of the site under concrete cover. A stony strand lies on the other side of that line.

2.0 Proposed Development

2.1. It is proposed to –

- Retain the dive centre building as it was constructed, whose height, elevation and layout differ from that authorised under Reg. Ref. P97/295
- Change the use of the first floor to a café
- Construct a rear extension to house a store room, with a floor area of 16.67m²

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided to grant permission subject to 7 conditions, none of which significantly altered the proposed development.

3.2. Planning Authority Reports

The planner's report stated that the principle of development was established by the grant of permission under Reg. Ref. P97/295. The revisions to be retained are

acceptable and the proposed extension is not significant. The proposed café would be ancillary to the main use of the building. A grant of permission was recommended.

3.3. Other Technical Reports

The Department of Arts, Heritage and the Gaeltacht noted that the site was close to the SAC at Achill Head, 002268 and this needs to be considered by the planning authority who may determine that an appropriate assessment is required. It recommended conditions that might be attached to a grant of permission.

3.4. Third Party Observations

Third parties objected to the proposed development on grounds similar to those raised in the subsequent appeal.

4.0 Planning History

Reg. Ref. P97/295 – The planning authority granted permission on the 8th July 1998 to construct a scuba diving centre on the site.

5.0 Development Plan

The Mayo County Development Plan 2014-2020 applies. It identifies Achill as part of the structurally weak rural area. Objective TM-01 is to support and promote sustainable tourism development that would not have significant adverse effects on the environment, including those on the Natura 2000 network or on amenity.

6.0 Natural Heritage Designations

The Special Area of Conservation at Achill Head, sitecode 002268, lies below the high water mark in the vicinity of the site. The conservation objectives for the site are to maintain the favourable conservation condition of the following habitats -

1140 Mudflats and sandflats not covered by seawater at low tide

1160 Large shallow inlets and bays

1170 Reefs.

7.0 The Appeal

7.1. Grounds of Appeal

The grounds of appeal can be summarised as follows:

- The building is an unauthorised development. The description of the development is misleading. The building has been a boat store and not a 'dive centre' as described. Sufficient investigations have not been carried out as regards the use of the property. The building should be first retained before proposals are made for proposals to develop the structure. The address was stated incorrectly in the notices; the townland is actually Keel East. Sections 15, 18 and 19 of the application form are incomplete. Insufficient details are given of effluent disposal and drainage. The submitted drawings do not sufficiently highlight the difference between the existing structure and the new proposal. The plans are marked draft plans and do not refer to footpaths, drainage or proximity to existing fences and structures.
- The first floor would be in commercial use with inadequate consideration for parking and overlooking.
- Proper facilities for parking and vehicle turning have not been proposed. The spaces would not meet development plan standards. There is only room on the site for 3 spaces without provision for deliveries, boats, trailers etc.
- The boundaries of the site are inaccurately shown and it lacks proper access.
- The windows and doors in the proposed building overlook adjoining properties.

- The rear extension is close to the existing pumping station. Details of wayleaves or rights of way have not been provided.
- The Natura Impact Statement is inconclusive and was not independently prepared. It is ridiculous to state that there are no environmental impacts from the proposed development. The development would introduce a commercial diving, retail and café into a building that is currently a boat shed. There is no drainage on the site and no sewer or septic tank. No provision is made for the disposal and treatment of waste water from the shower and wash facilities in the proposed dive centre. None can be provided as the site is surrounded by land held in commonage. The mitigation measures set out at page 11 of the NIS cannot be implemented. The statement fails to include the area in the Achill Head SAC. The author cannot conclude as he had.
- Proper notice was not given of the submission of significant further information on the 20th May 2016.
- The proposed fencing is industrial in character and would be out of keeping with the scenic character of the harbour.
- The proposal to establish a large commercial business at this location is premature and would cause traffic chaos, and would be contrary to the proper planning and development of the area. There has been insufficient discussion with the adjoining landowners who have been using the harbour for generations.

7.2. Planning Authority Response

None received.

7.3. Other Party Responses

None received

8.0 Assessment

8.1. I consider the key issues in determining this appeal are as follows:

- Appropriate Assessment
- Amenity
- Access
- Procedural Issues

8.2. Appropriate Assessment

The site is outside the nearby SAC at Achill Head. It occupies land that was subject to works prior to the proposal of the SAC, as were the adjoining lands on each side. Therefore neither the site nor the immediately adjoining land contain any of the habitats of which are the subject of the conservation objectives of the SAC or any other habitats of ecological interest. The development could therefore have no direct effect on such habitats or the SAC. The proposed development would authorise the retention and carrying out of minor works to an existing building. The small scale of those works means that the carrying out of the development would not be likely to give rise to activity or disturbance that would have any significant effect on the conservation objectives of the SAC, either individually or in combination with any other plan or project, provided they were carried out with a minimum level of competence in accordance with standard construction practice. The scale and nature of the proposed uses are in keeping with those authorised on the site, with the proposed café being a reasonable ancillary facility for the authorised diving centre. The development would not result in an intensification in the use of the site that would be likely to give rise to disturbance or emissions that would be likely to have any significant effect on the conservation objectives of the SAC, either individually or in combination with any other plan or project. The development would

not change the drainage characteristics of the site, with foul effluent being discharged to the public wastewater system via the existing connection and the surface water runoff to the existing soakpit. Therefore it would not be likely to have any significant downstream effects on the conservation objectives of the SAC. These conclusions are consistent with the Natura Impact Statement submitted by the applicant. The various assertions to the contrary in the appeal in with regard to appropriate assessment are not supported and are not accepted. Having regard to the foregoing, it is reasonable to conclude on the basis of the information on the file, which is adequate to issue a screening determination, that the proposed development, individually or in combination with other plans or projects would not be likely to have significant effects on the Special Area of Conservation at Achill Head, sitecode 002268, or any other Natura 2000 site, in view of the site's conservation objectives and a Stage 2 Appropriate Assessment is not required.

8.3. Amenity

The proposed development, including its prospective and retentive elements, would result in a building whose form and function was in keeping with its location beside a harbour. The building would be simple in scale and modest in design. It would not injure the visual amenities or character of the area. The proposed development would not give rise to undue overlooking of adjoining properties. The continued operation of the dive centre with an ancillary café would be provide the kind tourist development that is supported by objective TM-01 of the county development plan.

8.4. Access

The boundary, access and parking arrangements in the vicinity of the site around the harbour are generally informal. The scale of the proposed development is modest and does not represent an intensification of the authorised use on the site that would

lead to significant issues with access or parking. The proposal made by the applicant in this regard in the further information submitted to the planning authority, with 7 parking spaces on the site and no change to the access from the public road, are therefore acceptable.

8.5. Procedural issues

The development that would be authorised by a grant of permission in this case, including both its retentive and prospective elements, is clearly described in the published notices of the application and the drawings that accompanied them. The use of the existing drainage system was specified on the application form, which was adequately completed, and shown on the submitted site plans. The further information and clarification thereof submitted to the planning authority adequately described the proposed boundary fencing. The proposed development would not interfere with the outfall pipe from the wastewater treatment plant. Proper opportunity was available for third parties to make submissions as to whether the development would be in keeping with the proper planning and sustainable development of the area to the planning authority and subsequently to the board. Submissions regarding the status of previous works as authorised development or otherwise are dealt with under part 8 of the planning act which does not involve the board.

9.0 **Recommendation**

- 9.1. I recommend that planning permission should be granted, subject to the conditions, reasons and considerations as set out below.

10.0 Reasons and Considerations/ Reasons

The nature, scale and form of the development for which permission is sought would be appropriate to its location and would be in keeping with objective TM-01 of the Mayo County Development Plan 2014-2020. The development would not be likely to have significant effects on the SAC at Achill Head, sitecode 002268 or any other Natura 2000 site, either individually or in combination with any other plan or project. Subject to compliance with the conditions set out below, the development would be acceptable in terms of traffic safety and convenience, would not be prejudicial to public health and would not seriously injure the character of the area or the amenities of property in the vicinity. It would therefore be keeping with the proper planning and sustainable development of the area.

11.0 Conditions

1. The development shall be carried out and completed in accordance with the plans and particulars lodged with the application as amended by the further plans and particulars submitted on the 12th day of February 2016 and the 20th day of May 2016, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity

2. The mitigation measures set out in section 5 of the Natura Impact Assessment report submitted to the planning authority shall be carried out in full in the course of the development.

Reason: To protect the natural heritage of the area

3. Detail of the external finishes, colours and materials of the proposed extensions to the building on the site, as well as those of the proposed fences, shall be submitted and agreed with the planning authority within 3 months of the date of this permission.

Reason: In the interests of visual amenity

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

Reason: In the interest of visual amenity.

5. Water supply and drainage arrangements, including the disposal of surface water, shall comply with the requirements of the planning authority for such works. In particular, all foul effluent shall be diverted to the public sewer and only uncontaminated surface water shall be discharge to the soakpit.

Reason: To ensure adequate servicing of the development, and to prevent pollution.

6. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning and Development Act 2000. The contribution shall be paid prior to the commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to the Board to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000 that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

. Stephen J. O'Sullivan

. Planning Inspector

1st November 2016