



An
Bord
Pleanála

Inspector's Report PL07.247293

Development	To demolish existing dilapidated structure and construct a dwelling house with septic tank and treatment plant.
Location	Knock, Inishbofin, Co. Galway.
Planning Authority	Galway County Council
Planning Authority Reg. Ref.	16/296
Applicant(s)	Patrick Coyne
Type of Application	Permission
Planning Authority Decision	Grant, subject to 9 conditions
Type of Appeal	First Party -v- Condition 2
Appellant(s)	Patrick Coyne
Observer(s)	None
Date of Site Inspection	25 th November 2016
Inspector	Hugh D. Morrison

1.0 Site Location and Description

- 1.1. The site is located beside the eastern shoreline of Inishbofin. This site lies towards the western end of a row of cottages, which are served by a road that passes between them and the sea. It traverses this road to include a small portion of land to the north west abutting the shoreline, while the main body of the site lies on the landward side.
- 1.2. The site is of regular shape and it extends over an area of 0.05 hectares. The ruins of a building lie in the north eastern corner of the site and a stone shed accompanies these ruins to the west. To the east lies a new two storey cottage, which adjoins a single storey cottage, and further to the west lie two older cottages. The site is over grown to the rear of the ruins and the shed and it rises, in a southerly direction, across its centrally and southern portions.

2.0 Proposed Development

- 2.1. The proposal would entail the demolition of the ruins of a building (24 sqm) and the shed on the site and the construction in their place of a dwelling house (103 sq m), which would be served by a Conder waste water treatment system (WWTS).
- 2.2. The proposed dwelling house would be sited in a position whereby its front elevation would align with the projecting front elevation of the adjacent two storey cottage to the east. As this cottage extends to the rear, the proposed rear elevation would not align with the same. It would project further to the south than the rear elevations of the cottages further to the west. The proposed WWTS would be installed to the rear of the proposed dwelling house.
- 2.3. The proposed dwelling house would be laid out internally over two floors. The ground floor would have an open plan living area, which would be accessed directly from the front door and which would include a kitchen in one corner, a utility room by the back door, and a bedroom with an en suite. The upper floor would be accessed directly by means of a staircase from the living area to the first floor, where there would be two bedrooms and a bathroom.
- 2.4. Externally, the 45 degree double pitched roof would facilitate the inclusion of the aforementioned first floor within the roofspace. The front plane would have three

rooflights installed within it and the rear roof plane would extend over its eastern and central portions to a lower eaves height. Glazing would be installed in the lowest reaches of this extended roof plane. The front door would be sited in an off-centre position and the front windows would align vertically with the aforementioned rooflights. The gable ends would have a raised parapet and a chimney would be constructed above the eastern gable end.

3.0 Planning Authority Decision

3.1. Decision

Following receipt of further information, permission was granted subject to 9 conditions, the second of which states the following:

Use of the proposed house shall be restricted to use as a house by the applicant, applicant's family, heirs, executors and administrators, unless otherwise agreed by the planning authority for a period of 7 years.

The period of restriction shall have effect from the date of first occupation of the house by the approved occupant.

Within 3 months of commencement of the development the applicant/developer shall enter into a legal agreement with the planning authority under the provisions of Section 47 of the Planning and Development Act 2000 (as amended) the purpose of which shall be to give effect to the above restriction.

The house shall not be occupied until an agreement embodying a provision to give effect to the above restriction(s) has been entered into with the planning authority pursuant to Section 47 of the Planning and Development Act 2000 (as amended).

Reason: *To ensure that development in the area in which the site is located is appropriately restricted.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

- Further information was sought as follows:

(i) Documentary evidence that the structure was used as a dwelling, a structural report, a comprehensive design statement, and a statement of housing need.

(ii) Stage 1 Screening for Appropriate Assessment and, as appropriate, Stage 2 Appropriate Assessment.

(iii) Submission of "T" tests and site specific details of the proposed waste water treatment plant.

(iv) Site plan showing surface water drainage proposals.

(v) Demolition and construction management plan for the proposal.

In accordance with the CDP's Objective RHO 7, where the total demolition of an existing dwelling is proposed, an Enurement Clause for 7 years duration will apply. Objective EDT 19 addresses holiday accommodation in the open countryside. However, as this Objective relates to the re-use of existing buildings, it is not applicable to the current proposal.

3.2.2. Other Technical Reports

None.

3.3. Prescribed Bodies

DoAHG: Further information requested concerning screening for Appropriate Assessment.

3.4. Third Party Observations

None.

4.0 Planning History

The site

- **13/509:** Demolition and reconstruction with alterations of an existing ruined cottage along with a new septic tank and treatment plant with percolation area: Refused at appeal (PL04.242652) for the following reason:

Having regard to the nature and extent of ruins on the site and the fact that ruins had not been occupied for a considerable time, the Board did not consider the proposal to represent a replacement house. The Board therefore considered that the proposal did not comply with Policy HP 22 or Policy HP 24 of the County Development Plan and considered, given the Class 5 landscape sensitivity accorded to the area in the Development Plan, that the proposal would be seriously injurious to the visual amenities of the area. The development would therefore not be in compliance with the proper planning and sustainable development of the area.

An accompanying note stated that the inspector's concerns with regard to the size and capacity of the size to disposal of effluent were noted, but that, given the substantial reason for refusal, this matter, which would have amounted to a new issue, was not pursued.

- Pre-application consultation occurred on 6th January 2016.

Adjoining site to the west:

- **13/507:** Demolition and reconstruction with alterations of an existing habitable cottage along with a new septic tank and treatment plant with percolation area: Refused at appeal (PL04.242653) for the following reason:

Notwithstanding the intended use of a proprietary waste water treatment system, the Board is not satisfied that the proposals for the treatment and disposal of waste water generated by the development would be adequate to protect the waters in the vicinity of the site, having regard to the restricted nature of the subject site, together with its very small size and the density of development in the vicinity of the site, and the fact that the site assessment provided in support of the application does not relate to the subject site, rather the adjacent site. The proposed development would, therefore, be prejudicial to public health and would be contrary to the proper planning and sustainable development of the area.

An accompanying note stated that the proposal might be acceptable if the area of the site were to be increased.

Example of neighbouring site to the east (further examples are cited in the case planner's report:

- **10/177:** Reconstruction of an old derelict cottage, including the demolition of the old ruined cottage walls and the construction of a new dwelling house and a sewage treatment plant with a sand polishing filter and all associate site works: Permitted at appeal (PL07.237280).

5.0 Policy Context

5.1. Development Plan

Under the Galway County Development Plan 2015 – 2021 (CDP), Inishbofin is shown as lying within a rural area type that is structurally weak and, as it is part of the West Coast (Clifden to mouth of Killary Harbour) landscape character area, which has a Class 5 “unique” landscape sensitivity and an “outstanding” landscape value rating, this island is categorised as Rural Housing Zone 3 and so Objective RHO 3 is applicable. Furthermore, insofar as the proposal relates to a dilapidated structure, Objective RHO 7 is applicable, and, insofar as it relates to the construction of a new dwelling house, Objective RHO 9 is applicable.

Under the now replaced Galway County Development Plan 2009 – 2015, the Policies HP 18 and HP 24 were relevant to the assessment of previous proposals that were similar to the current one.

5.2. Ecological Designations

The site overlaps with the following sites:

- Inishbofin and Inishshark NHA (000278)
- Inishbofin and Inishshark SAC (000278)
- Inishbofin, Omey Island and Turbot Island SPA (004231)

6.0 The Appeal

6.1. Grounds of Appeal

Condition 2 attached to the draft permission is appealed on the following grounds:

- The view is expressed that the planning authority was mistaken in attaching condition 2, an enurement clause, as the application is for the redevelopment of an infill site and the Board has previously granted permission to similar proposals without the attachment of such a clause.
- The applicant already owns a dwelling and his intention in building the proposed one is to use it for agri-tourism. He has no need of a further dwelling for himself.
- Objective EDT 21 of the CDP is cited, which addresses off shore island tourism.
- The inspector's report on a similar proposal for an infill site to the east of the current site is quoted extensively. The permission granted in this case (PL07.237280) was not subject to an enurement clause. No local housing need was demonstrated nor was it considered necessary for such need to be demonstrated. Policy HP 19 of the then extant CDP (2009 – 2015) was considered to support this approach.

6.2. Planning Authority Response

None.

6.3. Observations

None.

6.4. Further Responses

None.

7.0 Assessment

The applicant has appealed condition 2 only, which seeks to restrict the occupancy of the dwelling house over an initial 7-year period. Under Section 139 of the Planning and Development Act, 2000 – 2015, the Board has the discretion to consider the said condition in isolation from the remainder of the proposal. In this case, I consider that such discretion should not be exercised, as the contesting of condition 2 brings

into play a wider set of considerations with respect to the definition of the proposal and the applicant's subsequently expressed intentions. Furthermore, the site and the adjoining site to the west have planning histories that entailed the previous involvement of the Board and, in the light of the decisions thus made, I consider that it would be prudent to undertake a *de novo* assessment of the current proposal.

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

- (i) Land use,
- (ii) Design,
- (iii) Water, and
- (iv) AA.

(i) Land use

7.1.1 The description of the proposal states that a dwelling house would be constructed on the site, which is located adjacent to the eastern shoreline of Inishbofin.

7.1.2 Under the Galway County Development Plan 2015 – 2021 (CDP), Inishbofin is shown as lying within a rural area type that is structurally weak and, as it is part of the West Coast (Clifden to mouth of Killary Harbour) landscape character area, which has a Class 5 “unique” landscape sensitivity and an “outstanding” landscape value rating, this island is categorised as Rural Housing Zone 3 and so Objective RHO 3 is applicable.

7.1.3 Objective RHO 3 states that applicants for one-off dwelling houses must demonstrate their rural links to the area and they must submit a substantiated rural housing need. “Rural links” are defined as requiring an applicant to have lived for a substantial continuous part of their life within an 8 km radius of the site and “substantiated rural housing need” is defined as supportive evidence to the effect that the applicant has neither owned nor received planning permission nor built a one-off dwelling house in the area and they need the proposed dwelling house for their own occupation.

7.1.4 Objective RHO 3 also states that “An enurement condition shall apply for a period of 7 years, after the date that the house is first occupied by the person or persons to whom the enurement clause applies.”

7.1.5 Under a request for further information, the question of housing need was raised by the planning authority with the applicant. He responded by stating that this question did not arise as the proposal was an infill development, which would consolidate an existing streetscape. At the appeal stage, the applicant has further stated that he already has a dwelling house and that, as a local farmer, his intention is that the proposed dwelling house be used for agri-tourism. He also cites appeal PL07.237280 in which the Board granted permission for a site, further to the east of the current site, for a new cottage on the site of the ruins of an old cottage, without attaching an enurement condition.

7.1.6 Notwithstanding the applicant’s disavowal of housing need, the planning authority attached condition 2 to its draft permission on the basis that, under Objective RHO 7, it was bound to do so. This objective states that "The derelict/semi-ruinous dwelling must be structurally sound, have the capacity to be renovated and/or extended, and have the majority of its original features/walls in place." To this end a structural report is needed to illustrate the feasibility of resumed habitable use without compromising the original character of the dwelling. It also states that “Where the total demolition of the existing dwelling is proposed an enurement clause for 7 years duration will apply.”

7.1.7 Under a request for further information, the applicant submitted a structural report on the ruins of a building on the site. This report states that this building was a three bay cottage. However, only the remains of two bays now exist and it concludes that, due to neglect, these remains bear very little resemblance to a cottage. Consequently, there is no prospect of any of it being retained and incorporated into the proposed dwelling house in a manner that would satisfy the building regulations. Total demolition is thus required and so, under Objective RHO 7, condition 2 was attached.

7.1.8 The applicant also cites Objective EDT 19(a) which refers to holiday accommodation in the open countryside. This Objective states that the reuse of existing buildings for holiday accommodation can be considered where the

demand for such is demonstrated and where renovation work is carried out in a manner sympathetic to the scale and design of these buildings.

7.1.9 I note that the description of the proposal is that of a dwelling house rather than holiday accommodation. I note, too, that Objective EDT 19(a) refers to existing buildings that are capable of being renovated, a pre-condition that does not pertain to the current case.

7.1.10 The applicant refers to the site as an infill site and as such one that is in need of development to complete the streetscape. He states, in the aforementioned structural report that this streetscape was previously unbroken. In this respect, his statement of Archaeological and Historical Background describes the row of original cottages as having been a planned response to rapid population growth in the early 19th Century. An accompanying extract from the historic Ordnance Survey 6-inch map from 1840 confirms that there was just such a row of cottages at that time.

7.1.11 I, therefore, understand the applicant's case to be that the partial ruins of a cottage on the site within the context of a historic and contemporary row of cottages is justification in itself for the construction of a replacement dwelling house that he can use to provide holiday accommodation. By way of support for this case, he cites appeal PL07.237280.

7.1.12 I am concerned that there is a mis-match between the wording of the description of the proposal and the intended use. I am also concerned that the applicant's case, as summarised above, is not anchored in the CDP's policies and objectives. The planning authority appears to have addressed the free floating nature of the proposal by taking its cue from the wording of the description of the proposal rather than the applicant's stated intended use. The parties have thereby ended up at cross purposes.

7.1.13 I note with respect to the appeal cited by the applicant that the Galway County Development Plan 2003 – 2009 was operative and that Policy 11 informed the Board's decision. This Policy stated that "In the case of derelict/semi-ruinous buildings generally, encourage their redevelopment for commercial, residential or economic purposes. In practice the redevelopment of these buildings will be permitted where they: (i) can be adequately serviced, and (ii) have their

original external walls largely intact.” I note, too, that it is not paralleled in the current Plan, where Objective RHO 7 refers to the renovation of existing derelict/semi-ruinous dwellings and Objective EDT 19(a) refers to the reuse of existing buildings for holiday accommodation. The former Objective only contemplates complete redevelopment in conjunction with an enurement clause and the latter Objective only contemplates renovation works to an existing building. In the current case, the scenario envisaged by the former Objective has been disavowed by the applicant and the scenario envisaged by the latter Objective does not arise, as the proposal would entail complete redevelopment.

7.1.14 I, therefore, conclude that there is a mis-match between the wording of the description of the proposal and the applicant’s intended use. If the former understanding is applied, then the planning authority was correct in attaching condition 2 to the draft permission, and, if the latter understanding is applied, then the policies and objectives of the CDP would not support the proposed redevelopment of the site to provide holiday accommodation. Insofar as the description of the proposal is, for legal purposes of greater weight than subsequent correspondence from the applicant, I conclude that any permission for a dwelling house should be accompanied by an enurement clause and so the said condition 2 is warranted.

(ii) Design

7.2.1 The proposed dwelling house is the subject of a Design Statement, which discusses the vernacular cottage architecture of Inishbofin in conjunction with this dwelling house.

7.2.2 The proposed dwelling house would resemble an historic island cottage insofar as it would be of elongated form under a double pitched slated roof with straight gabled ends. The walls would be finished in render and the arrangement of openings on the front elevation would follow a traditional pattern, insofar as the timber boarded front door would be off centre and there would be two timber framed sliding sash windows on the RHS and one timber framed sliding sash window on the LHS.

7.2.3 During my site visit, I observed that the row of cottages comprises examples of ones that follow the historic pattern of design more closely than others. The more compliant cottages are more visually comfortable than these other ones. They also echo the legacy of conforming design indicated by the footprints of cottages on the above cited Ordnance Survey map extract.

7.2.4 In the light of the foregoing observation, I am concerned that the proposed dwelling house would have a steeper pitched and higher roof than would have been the norm in the past. Consequently, the scale of the resulting roofscape would exceed that of nearby cottages and the ridgeline would be similar in height to the adjacent two storey cottage to the east. Furthermore, the introduction of roof lights to the front roof plane and the specification of a chimney to only one gable end would be out of character with vernacular traits set out in the above cited Design Statement. In this respect, pairs of chimneys were traditionally sited either more centrally on ridgelines or, if at gable ends, then at both gable ends. Roofspace accommodation was lit by means of windows within the gable ends.

7.2.5 I conclude that, in the light of both Inishbofin 's highly sensitive and valuable landscape and the well-articulated traits of island vernacular architecture, the design of the proposed dwelling house would fail to be sufficiently cognisant of this architecture and so within the site's sensitive landscape and built contexts it would be seriously injurious to the visual amenities of the area.

(iii) Water

7.3.1 The proposed dwelling house would, accordingly to the completed application forms, avail of an existing water supply connection. However, no such connection is evident on site and so a new one from the public water mains would be necessary

7.3.2 Surface water is shown, on drawing no. 12-103-66, as discharging from the site to an existing drain/water course adjacent to the public road that runs through the northern portion of the site. Condition 4 attached to the draft permission requires that the drainage arrangements thus shown should comply with BRE Digest 365.

7.3.3 The CDP's Stage 1 Strategic Flood Risk Assessment of Galway does not show any historic flood risk indicators pertaining to the site and so the preliminary flood risk assessment for this site is favourable.

7.3.4 Waste water from the proposed dwelling house would be handled by means of a packaged waste water treatment system (WWTS) and polishing filter. As originally submitted, a Conder ASP6 WWTS was proposed, but, following the receipt of further information, this was substituted for by a Puraflo Peat Biofilter WWTS.

7.3.5 The submitted completed site characterisation form contained no "T" or "P" test results. Under further information, "T" test results were submitted, although on examination these are identical to the "T" test results that formed part of the completed site characterisation form for the preceding application 13/507 and appeal PL07.242653. The inspector reported that these tests related to trial holes dug for the neighbouring site, which was the subject of application 13/509 and appeal PL07.242652. The said preceding application was refused at appeal on the grounds, amongst other things, that "the site assessment provided in support of the application does not relate to the subject site". Thus, the submitted "T" test results simply repeat the information that was previously submitted and deemed to be unsatisfactory.

7.3.6 The proposed percolation area would be formed by means of the introduction of loamy soil with a "P" value between 15 and 25. Such introduction would imply that the applicant considers that the ground conditions would be unsatisfactory for the provision of such a percolation area.

7.3.7 I note that, under Table 6.1 of the relevant EPA Code of Practice, the minimum distance between a percolation area and the foreshore should be 50m. Under the current proposal, the distance between this area and the back of the nearby beach would be between 34 and 36m. Given that the foreshore is the part of the shore between high and low water marks, the applicant should demonstrate that the 50m minimum clearance distance would be capable of being met. This he has not done.

7.3.8 I note, too, that the site of the proposed percolation area would be on rising ground and so its future stability would be a cause for concern. The applicant

has not addressed this issue. Furthermore, the completed site characterisation form states that the WWTS would have a PE of 6 and yet the percolation area would be designed for a PE of 4. The submitted floor plans indicate that the proposed dwelling house is designed to accommodate 5 people and so, under Table 7.2 of the relevant EPA Code of Practice, the trenches within the proposed percolation area should be 90m (5 x 18m) rather than 72m (4 x 18m). Given the tightness of the siting of this area within the site, it may not be possible to provide the required size within the confines of this site.

7.3.9 I conclude that the applicant has not submitted a fully completed site characterisation form for the site and he has not demonstrated that the proposed percolation area would be sited in a position that would be sufficiently clear of the foreshore, that it would be stable, and that it would be of sufficient size to serve the proposed dwelling house.

(iv) AA

7.4.1 The site lies within the Inishbofin and Inishshark SAC (site code 000278) and in the immediate vicinity of the Inishbofin, Omey Island and Inishturbot SPA (site code 004231). The applicant has submitted a Stage 1 Screening for Appropriate Assessment, which concludes that a Stage 2 Appropriate Assessment is not necessary.

7.4.2 I have considered the qualifying interests of the said SAC and SPA and their accompanying conservation objectives. I have also considered the proposal for the site. Notwithstanding my discussion of the proposed WWTS, I do not consider that this proposal would be likely to have either on its own or in combination with other proposals any significant effects upon these conservation objectives.

7.4.3 Having regard to the nature and scale of the proposed development, no Appropriate Assessment issues arise and it is not considered that the proposed development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

In the light of my assessment, I recommend that the proposal be refused.

9.0 Reasons and Considerations

1. The description of the proposal is for the demolition of a dilapidated structure and the construction of a dwelling house and so the site would be completely redeveloped. Under Objective RHO 7 of the Galway County Development Plan 2015 – 2021, where total demolition is in prospect, any new dwelling house must be the subject of an enurement clause for a duration of 7 years. Thus, to grant permission without such a clause would be to contravene this Objective and, as such, it would be contrary to the proper planning and sustainable development of the area.
2. The design of the proposed dwelling house would, due to the steep pitch, ridgeline height, and size of the roof, the inclusion of rooflights on the front roof plane, and the siting of a single chimney on one gable end only, be out of character with the vernacular architecture of Inishbofin. Furthermore, within the sensitive landscape and built contexts of the site, this dwelling house would appear as an unsympathetic addition to the existing row of cottages on either side and so it would be seriously injurious to the visual amenities of the area. Accordingly, the dwelling house would be contrary to the proper planning and sustainable development of the area.
3. The proposed percolation area would be sited to the rear of the proposed dwelling house on rising ground. The applicant has failed to submit a fully completed site characterisation form for the site and he has failed to demonstrate that the percolation area would be sited in a position sufficiently far away from the foreshore, that it would be stable, and that it would be large enough to accommodate the requisite length of trenches needed to serve a PE of 5. Accordingly, to accede to this percolation area, in these circumstances, would be premature and it would potentially jeopardise public health. The proposal would thus be contrary to the proper planning and sustainable development of the area.

Hugh D. Morrison
Planning Inspector

21st December 2016