



An
Bord
Pleanála

Inspector's Report PL91.247861

Development	Demolition of parochial house - protected structure and construction of new parochial house
Location	Bohereen, Donoghmore, Co. Limerick
Planning Authority	Limerick City & County Council
Planning Authority Reg. Ref.	16/188
Applicant(s)	Fr Tom Mangan
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Fr Tom Mangan
Observer(s)	Vincent Keyes
Date of Site Inspection	22 nd April 2017
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	3
2.0 Proposed Development	3
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	7
3.4. Third Party Observations	7
4.0 Planning History.....	8
5.0 Policy Context.....	8
5.1. Development Plan.....	8
5.2. Natural Heritage Designations	9
6.0 The Appeal	9
6.1. Grounds of Appeal	9
6.2. Applicant Response	Error! Bookmark not defined.
6.3. Planning Authority Response.....	11
6.4. Observations	11
6.5. Further Responses.....	11
7.0 Assessment.....	11
8.0 Recommendation.....	16
9.0 Reasons and Considerations.....	16
10.0 Conditions	Error! Bookmark not defined.

1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.37 ha is located within the rural settlement of Donoghmore, between the local church and primary school to the south of Limerick City. The site adjoins the local primary school. There is an existing unoccupied two store dwelling on the site with a stone coach house to the rear. There are two vehicular entrance serving the site. The site is marginally raised above the adjoining public road. A set of photographs of the site and its environs taken during the course of the site inspection is attached. I would also refer the Board to the photographs available to view throughout the appeal file.

2.0 Proposed Development

2.1. This is an application for the demolition of existing parochial house (236.9 sqm), and for the construction of a new parochial house (210.2), new septic tank and percolation area, the realignment of the front boundary wall and entrance, parking and all ancillary site works. The application was accompanied by a Site Suitability Assessment.

2.2. At the time the application was submitted to Limerick City & County Council on 10th March 2017 the existing parochial house was a protected structure (RPS SE 10). However, in November 2016 the building was removed from the Record of Protected Structures.

2.3. In response to a request for further information (25th August 2016) the applicant requested an **extension of time for three months**. This was subsequently permitted (7th September 2016) by Limerick City & County Council.

2.4. In response to a request for **further information** (16th November 2016) the applicant submitted the following:

- Inspection report, which along with their inspection plans, provides a breakdown of the operating and maintenance costs of the existing building and their appraisal of the building. As part of cost considerations, they have given figures for the upgrading of this building to conform to current building regulations and the subsequent maintenance fees.

- Punch Consulting Engineers, have carried out a full report of the building, showing their inspection notes, photographic evidence and their professional opinion on the upgrading and maintenance of this building.
- A condition report of the Parochial House giving a brief history of the building, an outline of works recently carried out on the building as well as urgent works needed to be carried out and the cost of such remedial works.
- Existing survey drawings (drawing no. 14.10.309/05A) stating materials of the structure, their composition and the condition of the fabric.
- Full Archival Standard Photographic Study of the existing Parochial House
- Historical Study.
- Statement of Justification.
- Detailed conservation based specifications and methodologies.
- Full site characterisation report

2.5. Also included was a copy of a letter from the applicant (23rd November 2015) to the Chief Executive of Limerick City & County Council applying to delist the property from the Record of Protected Structures for the following reasons:

- The existing structure in its present state is totally unfit for human habitation
- Is a derelict and dangerous building
- Is a serious health and safety issue
- Subject to anti-social behaviour
- Structurally unsafe
- Unfit for purpose because of its scale a, size and layout
- Economically not suitable for restoration

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Limerick City & County Council refused planning permission for the following two reasons:

1. *In the absence of sufficient evidence submitted on file to date with regard to the suitability of the site for the safe disposal of domestic effluent treatment, it is considered that the proposed development, if permitted, would be prejudicial to public health and would seriously endanger the health and safety of persons occupying the structure.*
2. *The County Development Plan contains a general presumption against the demolition of habitable dwellings as set out in Objectives RSO5 and RSO6, where it aims to promote rehabilitation of existing buildings, over demolition. The Planning Authority is not satisfied that there are sufficient grounds for demolition of this dwelling as per the information submitted on file to date. Objective RSO5 aims to protect structure of special architectural, historical, archaeological, artistic and cultural interest. The structure in question is listed on the National Inventory of Architectural Heritage (Reference Number 21901332) therefore the proposal for the demolition of a habitable house is contrary to Objectives RSO5 and RSO6 of the County Development Plan and would set an undesirable precedent for the future preservation of such buildings in the County.*

3.2. Planning Authority Reports

3.2.1. Planning Reports

3.2.2. The **Local Authority Case Planner** in their first report (27th April 2016) recommended that **further information** be sought in relation to the justification for the demolition of a protected structure, submission of structural and condition survey, the requirements of the Department of Arts, Heritage and the Gaeltacht and a further T-test with percolation test holes. The applicant was also advised that there was a strong objection on file from the Department of Arts, Heritage and the Gaeltacht indicating that the Applicant has not demonstrated any reason for seeking to demolish this structure and that the exceptional circumstances that would allow the Planning Authority to grant permission have not been met.

3.2.3. The **Case Planner** in their second report (9th December 2016) recommended that permission be refused for two reasons. The notification of decision to refuse permission issued by Limerick City & County Council reflects this recommendation.

3.2.4. **Other Technical Reports**

3.2.5. The **Environment Waste Management Section** (11th April 2016) has no objection to the scheme subject to a condition requiring the submission of a waste management plan.

3.2.6. The **Environment Section** (13th April 2016) requested that a T-test with percolation test holes and that if the site was not suitable for a septic tank and percolation area then a detailed proposal should be submitted for a secondary wastewater treatment system and polishing filter. Having considered the further information (12th September 2016) the Environment Section recommended that further clarification be requested. It is stated that the applicant's is unsatisfactory.

3.2.7. The **Conservation Officer** (20th April 2016) in their first report request further information pertaining to the requirement for a Preservation by Record if the dwelling is demolished, Full Archival Standard Photographic Study, Historical Study, Statement of Justification and detailed methodologies for conserving and restoring the Coach House. Having considered the further information (8th December 2016) the Conservation Officer set out the following:

- References throughout much of the submitted documentation to “current Building Regulations” do not take account of exemptions provided both for existing building stock or protected structures either implicitly or by exemptions. Consequently, many of the arguments put forward are weakened.
- The photographic record is inadequate – the photographs are crowded, need to be mounted to the one plane, and individually captioned. However, this can be addressed by Condition.
- Confirmed that the house was removed from the Record of Protected Structures by a unanimous decision of the Elected Members of the Metropolitan District of Limerick City and County Council held on November 21, 2016, with the intention that the aforementioned Coach House would be retained.
- Stated that applicant's architect's covering letter elaborates on much of the material requested in the Request for Further Information using such phrases as “...find enclosed...” or “is enclosed...”. However, items titled:

- a) Historical Study;
- b) Statement of Justification;
- c) Details conservation based specifications and methodologies for conserving and restoring the Coach House

are entered in the letter but have no elaboration or response contained in the material submitted. Agreed with the applicant to proceed to address relevant outstanding matters by way of Conditions.

- Stated that as the house was removed from the Record of Protected Structures, the Statement of Justification is not required.
- Concluded that should a decision be made to issue a Notice of Intention to Grant Planning Permission, that conditions relating to compliance with plans provided, photographic record, detailed historical study, detailed methodologies for conserving and restoring the Coach House and a detailed costed elemental record of the works programme.

3.2.8. **Northern Operations** (Roads) (30th April 2016) states that the proposal will benefit the National School adjacent and would be welcomed.

3.3. **Prescribed Bodies**

3.3.1. **Irish Water** (14th April 2016) has no objection to the scheme.

3.3.2. The **Department of Arts, Heritage and the Gaeltacht** (22nd April 2016) recommended that the planning authority refuse to grant permission for the proposed development for the heritage-related reasons in their report.

3.4. **Third Party Observations**

3.4.1. There is one third party observation recorded on the planning file from Vincent Hayes who objects strongly to the demolition of the Parochial House as it is art of the history of the parish and that it should have been left on the protected list of buildings.

4.0 Planning History

- 4.1. There is no evidence of any previous planning application or planning appeal on this site.

5.0 Policy Context

5.1. Development Plan

- 5.1.1. The operative plan for the area is the **Limerick County Development Plan 2010 – 2016**. Objectives relevant to this appeal are set out as follows:

Objectives R SO5: Refurbishment / replacement of Traditional Rural Dwelling

The retention and sympathetic refurbishment, with adaptation if necessary, of traditional dwellings in the countryside in sympathy with the character of the existing building will be encouraged in preference to their replacement.

Planning permission will generally only be granted for replacement of a dwelling where it is demonstrated that it is not reasonably capable of being made structurally sound or otherwise improved, where the building is not of architectural merit.

In this instance consideration will be given to the replacement of an existing dwelling with a new dwelling at the same location, subject to appropriate design, scale of building and normal planning considerations. Local rural housing need shall not apply in this instance.

Objective RSO6: Refurbishment of rural structures of merit

Consideration will be given to the reuse, refurbishment and conversion of structures of merit in all areas subject to satisfying the normal planning and sustainable development criteria and being in sympathy with the character of the existing building and surrounding area. Local rural housing need will not apply in this instance

5.2. Natural Heritage Designations

- 5.2.1. The site is not located within a designated Natura 2000 site. The nearest European sites is the Lower Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077)).

6.0 The Appeal

6.1. Grounds of Appeal

- 6.1.1. The first party appeal has been prepared and submitted by Noel Kerley Architects on behalf of the applicant Fr Tom Mangan PP. The issues raised may be summarised as follows:
- 6.1.2. The planning application (ref. 16/188) was lodged on the 10th March 2016, at the time Donoghmore House was on the Record of Protected Structures (RPS 1642/SE10), it has since been removed from the Record of Protected Structures by a unanimous decision of the Elected Members of the Metropolitan District of Limerick City and County Council on the 21st November, 2016.
- 6.1.3. Prior to this, a meeting was held with Mr. Conn Murray, Chief Executive of Limerick City and County Council on the 16th November, 2015 with the applicant Father Tom Mangan P.P. to discuss and apply for the removal of Donoghmore House from the RPS. The reasons and justification for the proposed demolition of the house included:
- structurally unsafe,
 - in a deplorable condition throughout,
 - unfit for purpose because of its scale, size and layout,
 - economically not suitable for restoration,
 - health and safety risk,
 - subject to anti-social behaviour.

This letter was sent after exhaustive efforts were made by the design team to survey the property, prepare tender documentation and specifications to make it fit for purpose for use by a single priests dwelling. The submitted costs were reported on and it became obvious that the renovation costs and future maintenance and

running costs of the dwelling made the renovation project unviable (see attached MDM Consulting Engineers report dated 24th June, 2015). All things considered, a decision was made to apply for the demolition of the existing house and to build a fit for purpose dwelling.

- 6.1.4. In referencing Objective RSO5 and to protection of structures of special architectural, historical, archaeological, artistic and cultural interest, it should be reiterated that Limerick City and County Council voted unanimously to remove Donoghmore House from the Record of Protected Structures. Clearly the Council agree that it does not have architectural or historical significance and the proposal for a replacement parochial house was valid. It therefore seems to be a major conflict of the Council's decision to remove the house from the RPS and the Council's reasons for Condition 2 of the refusal to grant.
- 6.1.5. Submitted that the fact that the house was removed from the RPS during the application process, confused some departments involved in the decision making, indeed the Conservation Officers report dated the 8th December 2016, refers that some items requested on the Council's further information request were not required as the house was no longer listed. Other departments within the Council supported the application as it was deemed to benefit the adjacent National School, see attached Planning Report, Traffic/Roads Department dated 3rd May, 2016.
- 6.1.6. In relation to the Refusal Reason No 1 it is submitted that a Full Site Assessment from an Approved and qualified Site Assessor, Janet Costello was provided with the planning application submission together with clarification in relation to a Further Information Item 4. The existing septic tank and percolation servicing the existing house, is without doubt prejudicial to public health, and therefore submitted that the provision of a modern effluent treatment system designed in accordance with current Environmental Regulations is to be welcomed and encouraged. Submitted that Reason No 1 could easily have been dealt with by a condition on an approval and feel that it was added to accompany a weak and contradictory decision.
- 6.1.7. Donoghmore House is not on the Record of Protected Structures and the decision seemed to have been based on treating it as if it were a Protected Structure. There are many precedent planning applications granted by Limerick City and County Council for the demolition of substandard houses and for replacement dwellings that will contribute positively to the environment.

6.2. **Planning Authority Response**

6.2.1. There is no response recorded on file from Limerick City & County Council.

6.3. **Observations**

6.3.1. There is one third party observation recorded on the appeal file from Vincent Hayes who objects to the demolition of the Parochial House as it can be modernised and is

6.4. **Further Responses**

6.4.1. There are no further response recorded on the appeal file.

7.0 **Assessment**

7.1. Limerick City & County Council refused planning permission for the demolition of the existing parochial house (236.9 sqm), and for the construction of a new parochial house (210.2), new septic tank and percolation area, the realignment of the front boundary wall and entrance, parking and all ancillary site works for two reasons relating to the (1) safe disposal of domestic effluent treatment and (2) the general presumption against the demolition of habitable dwellings.

7.2. Having regard to the information presented by the parties to the appeal and in the course of the planning application and to my site inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be addressed under the following general headings:

- Principle / Policy Considerations
- Waste Water Treatment
- Traffic
- Screening for Appropriate Assessment
- Development Contribution

7.3. **Principle / Policy Considerations**

7.3.1. The Planning Authority in their second reason for refusal stated that they were not satisfied that there were sufficient grounds for demolition of this dwelling as per the

information submitted on file and that as the structure is listed on the National Inventory of Architectural Heritage (Reference Number 21901332) the proposal for the demolition of a habitable house is contrary to Objectives RSO5 and RSO6 of the County Development Plan and would set an undesirable precedent.

- 7.3.2. It is noted that the Department of Arts, Heritage and the Gaeltacht (22nd April 2016) recommended that the planning authority refuse planning permission for demolition as it was a protected structure and that a planning authority shall not grant permission for the demolition, save in exceptional circumstances. The Department states that no information justifying the proposal for demolition was provided.
- 7.3.3. At the time the application was submitted to Limerick City & County Council on 10th March 2017 the parochial house was a protected structure (RPS SE 10 referred). However, in November 2016 the building was removed from the Record of Protected Structures (RPS) by *unanimous decision of the Elected Members* with the intention that the Coach House would be retained. It is unclear from the report of the Conservation Officers (8th December 2016) whether the Coach House was to be retained on the Record of Protected Structures or would be retained on site i.e. saved from demolition. Having regard to the Architectural Heritage Protection Guidelines for Planning Authorities if a structure is included in the RPS, the protection extends to the interior of the structure; to the land in its curtilage; **and to any other structures on that land and their interiors** (emphasis added). Therefore, it would appear reasonable to conclude that the likely intention was to remove the Parochial House and the Coach House from the RPS with the explicit instruction that the Coach House would be saved from demolition. Although it is again unclear what the legal standing of such an instruction would be. However, the Board may wish to seek clarification in this regard prior to making a decision on this appeal.
- 7.3.4. Nevertheless, what is clear is that at the time the planning decision issued from Limerick City and County Council in December 2016 the Parochial House had been removed from the RPS. Notwithstanding, I would draw the Boards attention to the National Inventory of Architectural Heritage (NIAH) which compiles records of Ireland's architectural heritage. The structure is included in the NIAH (reg. 21901332), and was recommended by the Minister for Arts, Heritage and the Gaeltacht for inclusion in the Record of Protected Structures in December, 2011.

- 7.3.5. According to the NIAH this medium sized house is of regional importance and retains a strong sense of its original historic character. The building illustrates a style of architecture popular in the late nineteenth and early twentieth century and its façade is enlivened with render adornment. The contrast between the rendered walls and red brick chimneystacks adds textural and chromatic variety. It is stated that the house was initially built as a parochial house, and its continuation in this function lifts its significance beyond architectural to social and cultural. The limestone outbuilding also adds context to the house.
- 7.3.6. The County Development Plan contains a general presumption against the demolition of habitable dwellings as set out in Objectives RSO5 and RSO6, where it aims to promote the rehabilitation of existing buildings, over demolition. In this case it is proposed to replace the existing house with a new parochial house of similar size (the existing house is 236.9 square metres and the proposed house is 201.2 square metres) while retaining the stone Coach House to the rear.
- 7.3.7. While the existing house is uninhabited and in need to repair including the removal of inappropriate interventions such as the replacement windows and doors it is very evident, as observed on day of site inspection, that the house retains a strong sense of its original historic character and architectural heritage. Without Protected Structure status there is in effect no legal obligation to ensure that the structure does not become endangered through neglect, decay or damage. This in my view is a most regrettable situation.
- 7.3.8. I have considered the argument put forward by the applicant as to why the building should have been removed from the Record of Protected Structures in the first instance and secondly as to why demolition should now be permitted. While I agree that dwelling at present is not fit for immediate habitation I do not consider the building to be so far beyond intervention and repair as to describe the building as derelict. While I also note the economic arguments put forward in support of its demolition and replacement with a similar sized two storey building it remains that this is a habitable house and its demolition cannot be justified.
- 7.3.9. Regardless of this buildings removal from the Record of Protected Structures it is my view that this building is worthy of preservation as supported by its inclusion in the RIAH. Therefore, I cannot support the proposed demolition of a habitable dwelling of

regional importance that clearly retains a strong sense of its original historic character. Refusal is recommended.

7.4. Waste Water Treatment

- 7.4.1. The Planning Authority in their first reason for refusal stated that in the absence of sufficient evidence with regard to the suitability of the site for the safe disposal of domestic effluent treatment, it was considered that the proposed development, if permitted, would be prejudicial to public health and would seriously endanger the health and safety of persons occupying the structure.
- 7.4.2. I accept that there are deficiencies in the information available on the file. However, in terms of the principle of providing a new waste water treatment system and percolation area at this site I consider that in all likelihood the risk to public health is much greater in respect of the existing septic tank which appears to discharge to an unidentified percolation area, than from any new proposed upgraded system.
- 7.4.3. On balance, I considered that it is not necessary to include this as a second reason for refusal, in the light of the substantive reason for refusal set out above. However, any future application for development on this site would have to provide the necessary comprehensive information, as required by the Planning Authority, in order to demonstrate whether or not such development would be acceptable on this site without undue risk to public health.

7.5. Traffic

- 7.5.1. The proposal involves the extension of the existing parking arrangements in front of the adjoining new primary school as a result of the setting back of the existing wall frontage to the development. It is stated that the new splayed entrance and boundary wall will match the existing limestone wall. It is also noted from the plans submitted that there will be one vehicular entrance instead of 2 no that currently exists. The Northern Operations (Roads) (30th April 2016) states that the proposal will benefit the National School adjacent and would be welcomed.
- 7.5.2. It is evident that the entrance proposed to be closed is the original entrance to the site and that the second entrance closer to the new school is a more recent addition. While I agree that the proposed additional car parking will benefit the school I am

concerned on two fronts. Firstly, that people using this new parking area will need to traverse the new upgraded vehicular access to the site in order to reach the school; an unnecessary pedestrian and traffic hazard in my view and secondly that the location of the historic access point is being removed without adequate justification. Accordingly, it is recommended that should the Board be minded to grant permission that a condition be attached requiring that access to the site is in the area of the existing entrance in the south eastern corner of the site, at location that is removed from the primary school with all details to be agreed prior to commencement of any work onsite.

7.6. Screening for Appropriate Assessment

- 7.6.1. Having regard to the nature and scale of the proposed development, the nature of the receiving environment and proximity to the nearest European site (Lower Shannon SAC (002165) and the River Shannon and River Fergus Estuaries SPA (004077)), 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.

7.7. Development Contribution

- 7.7.1. Limerick City and County Council has adopted a Development Contribution scheme under Section 48 of the Planning and Development Act 2000 (as amended). Limerick City and County Council Development Contribution Scheme 2017 – 2021 refers. Section 12 Replacement Applications states that *in the case of an application for replacement, development contributions will be charged on any additional floor area*. The proposed development comprising the demolition of the existing parochial house (236.9 sqm), and the construction of a new parochial house (210.2), falls into this category. Accordingly, it is recommended that should the Board be minded to grant permission that a Section 48 Development Contribution condition is not attached.

8.0 Recommendation

- 8.1. Having considered the contents of the application, the provisions of the Development Plan, the grounds of appeal and the responses thereto, my site inspection and my assessment of the planning issues, I recommend that permission be **REFUSED** for the reasons and considerations set out below.

9.0 Reasons and Considerations

1. The County Development Plan contains a general presumption against the demolition of habitable dwellings as set out in Objectives RSO5 and RSO6, where it aims to promote rehabilitation of existing buildings, over demolition. Further the Parochial House is listed on the National Inventory of Architectural Heritage (Reference Number 21901332) as a medium sized house of regional importance that retains a strong sense of its original historic character. The Board is not satisfied that there are sufficient grounds for demolition of this habitable dwelling of significant documented character architectural heritage. Therefore, to permit the demolition of this habitable house would be contrary to Objectives RSO5 and RSO6 of the County Development Plan and would set an undesirable precedent for the future preservation of such buildings in the County.

Mary Crowley
Planning Inspector

26th April 2017