



An
Bord
Pleanála

Inspector's Report PL 05E.247996

Development	Change of use from house to public house, erection of extension to rear, alterations to front elevation and roof detail and connection to existing public services and associated works.
Location	Ballyliffin, Lifford PO, Co Donegal
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	16/51668
Applicant	Glashedy Investments Limited
Type of Application	Permission
Planning Authority Decision	Grant Permission
Type of Appeal	Third Party v Grant
Appellants	Bernard Grant Bried Doherty (nee Grant), Marian Fagan (nee Grant), and Daniel Grant
Observer	Susan McGonagle
Date of Site Inspection	6 th July 2017
Inspector	Dolores McCague

1.0 Site Location and Description

- 1.1. The site is located in Ballyliffin, Lifford PO, Co Donegal. The site is occupied by a small single storey gable ended pitched roofed dwelling set back approximately 5m from the road edge at the junction of the shore Road and a small connecting road linking to the Main Street. The adjacent house to the north is 2 storey traditional style and adjacent to the south is a small church. Immediately south of the site is an access to a dwelling and adjoining that access there is an access to the Ballyliffin Lodge Hotel which is located to the southwest.
- 1.2. The village of Ballyliffin is located on the north-west coast of the Inishowen Peninsula. There is a links golf course to the north-east of the village, which is to host the 2018 Irish Open championship.
- 1.3. The site is given as 0.042ha.

2.0 Proposed Development

- 2.1. The proposed development is the change of use from house to public house, erection of extension to rear, alterations to front elevation and roof detail and connection to existing public services and associated works. The proposed extension to the rear is to facilitate toilets and storage. Bay windows to the front are to be removed and replaced with 3 smaller windows of vertical emphasis. Proposed works include the repositioning of the front door and the addition of roof barges.
- 2.2. A small yard will remain to the rear. Car parking for 4 cars is proposed to the front and 2 spaces to the rear. The pub is to be used in support of the Ballyliffin Lodge Hotel, for overspill during functions. Hours of operation will be restricted to Mon - Thurs – 10.30am -11.30pm, Fri & Sat 10.30am – 12.30 pm and Sunday 12.30am - 11pm.
- 2.3. The net public floor area is 78m².
- 2.4. Parking requirement is 1 per 20m² public area.

- 2.5. The application was accompanied by a drawing of the existing house of 74sqm floor area which has four rooms and a small return. Of the 4 rooms three are nominated as bedrooms, including one which leads off the living room.

3.0 Planning Authority Decision

3.1. Decision

The planning authority decided, 20/1/2017, to grant permission subject to 8 conditions, including:

Condition no. 2 - the car parking spaces located to the front of the public house shall be omitted. Reason: in order to define the permission and to cater for orderly development

Condition no. 7 hours for business: Mon - Thurs – 10.30am -11.30pm, Fri & Sat 10.30am – 12.30 pm and Sunday 12.30am - 11pm.

Condition no. 8 development contribution €405.72.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report of 20/01/2017, recommended granting permission.

The site is centrally located within the settlement of Ballyliffin Tier 4. Settlements where the Council seeks to recognise, promote their existing cultural heritage and rural settings and protect and consolidate the villages against further inappropriate expansion and to protect special character and cultural heritage.

The development is considered acceptable in principle as the site is centrally located. Tier 4 settlements have limited social and community infrastructure. A small local pub could make a positive contribution to this settlement. The issue of overconcentration of public houses does not arise. Potential impact on residential amenity, that might be generated, is consistent with what could reasonably be expected in the village centre and therefore acceptable. Limited impact in terms of additional traffic, parking generation and public sewerage.

3.2.2. Other Technical Reports

3.3. Roads & Transportation Planning – 5/01/2017 conditions.

4.0 **Planning History**

None stated

5.0 **Policy Context**

5.1. **Development Plan**

Donegal County Development Plan, 2012-2018 is the operative plan.

Relevant provisions include:

Tier 4 settlements include Ballyliffin, these are small villages where the aim is to protect & consolidate. These villages have a small population but identifiable settlement structure. There is limited social and community infrastructure while physical waste water treatment and water capacities are not available. Consideration will be given to examining how the deficiencies in water and wastewater systems can be remedied and it is essential that these small towns are recognised and promoted for their existing cultural heritage and rural settings. The plan will protect and consolidate these villages against further inappropriate expansion and will aim to protect special character of cultural heritage.

CS-P-1 It is the policy of the Council that proposals for development other than residential at Tier 2 and 3 towns, will be considered on all lands within the settlement envelopes that do not have a specific land use zoning assigned. Any such proposals will be assessed in the light of all relevant material planning considerations, relevant policies of the County Development Plan and other regional and national guidance/policy, relevant environmental designations and particularly the Councils Policy WES-P-10.

Each Settlement Framework consists of lands that, although not positively zoned for a particular use, are still important lands to be included within the settlement envelope in the context of supplying needs other than residential uses such as

community, educational, recreational, health and employment. The Settlement Frameworks consist of a development envelope which delineates the extent of the town and the point of transition to rural area together with specific zonings where appropriate, identification of important constraints/ opportunities as well as information in relation to the function and role of the town. The Settlement Frameworks are not designed to be exhaustive in the presentation of all the relevant matters that may be considered in the determining of a planning application, as further issues may evolve over time or may be pertinent in certain site specific cases.

CS-P-3 It is the policy of the Council that within the boundaries of Tier 4 settlements, applications for development will be assessed in the light of all relevant material planning considerations including land use zonings, availability of infrastructure, relevant policies of the Development Plan, other regional and national guidance/policy, relevant environmental designations and particularly the Council's Policy WES-P-10.

In relation to tourism the aim is to support the development of world-class sustainable tourism products and services as a key element of an overall economic development strategy.

WES-P-10 is a policy to ensure that waste water generated is collected and discharged in a safe and sustainable manner that is consistent with the combined approach outlined in the Waste Water Discharge (Authorisation) Regulations 2007 and with the objectives of the River Basin Management Plan.

Proposals for a single dwelling (or equivalent) in a sewered area will only be permitted where the planning authority is satisfied that the development, when considered in addition to existing and previously approved development, would not adversely affect the ability to meet the objectives set out in the North Western International River Basin Management Plan. When making a planning application applicants shall be required to indicate the point at which it is proposed to connect to the existing system, and shall be required to submit consents to connect to the

existing system including confirmation of capacity therein. Where the existing sewer or treatment system does not have the capacity for the development then the Planning Authority may at its absolute discretion permit an onsite treatment system compliant with the provisions for an un-sewered area above.

5.2. **Natural Heritage Designations**

The North Inishowen Coast SAC (Site Code 002012) is located almost about 750m from the site. Trawbreaga Bay SPA (Site Code 004034) is located c3km from the site.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

6.2. Canavan Associates Ltd, Chartered Town Planners and Registered Architects have appealed the decision to grant permission, on behalf of Mr Bernard Grant, the grounds includes:

- The street is predominantly residential. There are at least 35 dwelling units along the Shore Road from the junction with the R238 75m to the north.
- Lack of consultation. Only one report that from the roads engineer. No consultation with Irish Water or EHO.
- Procedural issues –
 - planning application and fee form have not been signed.
 - Vision lines c 50m are shown across third party lands. The roads engineer requires 70-70m. Some of the roads engineer's requirements are omitted from the decision.
 - There is a discrepancy in red line boundaries between site layout and location maps.
 - Finished floor levels are stated as existing but have not been surveyed.
 - Required contiguous street elevations have not been submitted.

- Impact on residential amenity. Existing problems will be exacerbated. The public house will attract an additional clientele of locals, the general public, visitors and tourists. The site is at higher ground level, almost by 1m, and has a smoking area to the south side of the rear extension, causing noise and light pollution. No details of this area have been provided; whether seating, tables, outdoor lighting, speakers etc will be provided. Smoking gardens should be located where they have least impact on surrounding residential properties. The external front area may also be used causing overlooking of third party's front garden and private amenity space as well as noise disturbance.
- The village is not deprived of community infrastructure. There are 5 hotels, a licensed restaurant, supermarket with off-license, an additional hotel which is closed at present, a Church, takeaway, hair salons, shops and fuel stations.
- It would not make a positive contribution.
- The planning assessment considers the location within the village boundary as acceptable, with no analysis of concerns.
- It would be detrimental to the privacy and residential amenity of the third party and other residents through increased noise pollution disturbance and overlooking.
- ED-P-16 (b) (f) of the CDP.
- Depreciate property value by changing the residential character of the area.
- Proposed parking is inadequate. Per CDP 2.5 spaces is required, 6 are proposed. The layout requires reversing onto the road from the 4 front spaces, where there is limited visibility due to on-street parking, and there is inadequate turning available for the spaces to the rear.
- No loading / delivery areas are shown and there is no provision for access for emergency vehicles.
- On-street parking and traffic congestion are existing problems. Third party's access is often blocked. This is the location of a school bus drop off and pick up point.

- Contrary to ED-P-16 (d) (e) of the CDP and table 25, Chapter 10 re car parking requirements.
- The public sewerage network is at maximum capacity and cannot accommodate the additional loading. Contrary to WES-P-10 and ED-P-16 (c) of the CDP.
- The Development Contribution attached as condition 8 is too low. No car parking contribution was applied.
- The application should not be regarded as ancillary to Ballyliffin Lodge Hotel and Spa. It is in a separate location, and not connected in applicant name.
- Precedent decisions of the Board for change of use / extension to public house and for smoking areas are cited.
- Precedent decisions of the planning authority in Ballyliffin related to public houses are cited: refusal reasons based on residential amenity, inadequate traffic arrangements: parking and circulation; inadequate public sewerage.
- Precedent decisions of the planning authority in Ballyliffin related to hotels are cited: refusal reasons based on residential amenity and inadequate public sewerage.

6.3. Canavan Associates Ltd, Chartered Town Planners and Registered Architects have appealed the decision to grant permission, on behalf of Bried Doherty (nee Grant), Marian Fagan (nee Grant), and Daniel Grant, the grounds includes:

- Loss of privacy to their family home which has been there for over 100 years.
- In the 80's and 90's they experienced disruption from the local hotel, the proposed public house would cause similar anti-social behaviour and disturbance in this residential area.
- Public house clientele would make the area unsafe for young children to play in the front garden.
- There are three licenced premises in the lower area of Ballyliffin. Traffic has doubled or trebled in the past 10 years. The proposed development would be a traffic hazard.

- The Shore road is the main access road to the Wild Atlantic Way Beach, Pollan Bay. Buses, delivery lorries and general traffic have difficulty in manoeuvring this road. The proposed development would increase congestion.

6.4. Planning Authority Response

6.5. The Planning Authority has responded to the grounds of appeal, which includes: the proposed development was determined to be acceptable in principal in so far as the site is centrally located within the village settlement of the Tier 4 settlement (CDP 2012-2018). Within the Plan, Tier 4 settlements have limited social and community infrastructure and as such the provision of a small local pub could make a positive contribution to the settlement. The activity and potential impact on residential amenity that might be generated by such a use, is consistent with what could reasonably be expected in a village centre and is acceptable in planning terms. The small public house, of modest scale, will give rise to limited traffic movements and associated parking which can reasonably be met by the availability of public car parks or on-street parking.

6.6. First Party Response

6.7. Harley Planning Consultants Ltd have responded to the grounds of appeal on behalf of the first party. The response includes:

6.8. Change of use of existing three bedroom dwelling to small public house.

6.9. Responding to the claim that the appellant is supported by local residents, the response encloses a petition signed by a significant number of adults who live in the designated boundary of the town supporting the proposal.

6.10. Procedural issues – are a matter for the planning authority.

6.11. Residential amenities – First party does not accept that there will be an impact on residential amenity or anti-social behaviour. The first party directors own the adjoining Ballyliffin Lodge and Spa Hotel which is operated to the highest standard and has a strong track record for scrupulousness and probity.

- 6.12. Acoustic report acknowledges that the site is located between the Ballyliffin Lodge Hotel and the Strand Hotel both of which are busy locations and in addition traffic volumes are high due to both passing traffic and traffic attending events.
- 6.13. No change to the overall sound climate, as currently experienced, would occur as a result of the development.
- 6.14. The premises will not accommodate music entertainment or dancing. There will be no tables or loudspeakers allowed outside or in the smoking area. The smoking area will consist of a standing area only with a shelf for ash trays. Lighting will be by means of a single bulkhead light. The first party will erect a boundary wall of at least 1.8m height which will address any potential overlooking. The front is already overlooked. The first party would be willing to restrict access to via the side door only, although they consider this unnecessary.
- 6.15. The development will not depreciate property value and valuers opinions are attached.
- 6.16. Re. traffic hazard the CDP T-P-6 required adequate car parking and servicing arrangements. T-P-6 states that a reduced number of car parking spaces may be acceptable in certain circumstances including spare capacity in adjacent car parks. There is a public car park adjacent. The CDP standards require 1 space per 20m² or 2.5 spaces. 2 spaces are required per dwelling the net increase is 0.5 spaces with the reduction in car parking requirement, per T-P-6 car parking, is not a major issue.
- 6.17. Loading deliveries will be one delivery per week in the afternoon. The owner of a private driveway adjoining consents to its use.
- 6.18. The school bus stop is not located at the top of Shore Road but in the town centre with a pick up at an informal stop outside the Strand Hotel.
- 6.19. There is occasional build-up of traffic around this location, the impact on residential amenities is exaggerated and a worst case scenario has been shown.
- 6.20. Public Sewerage – consulting engineers report is attached. There is no basis to the argument that the development would place an increased strain on an already overloaded system.
- 6.21. The Development Contribution condition cannot be the basis of an appeal.

6.22. While both of the directors of the applicant company are also directors of Ballyliffin Lodge and Spa and it was stated that the proposal would provide overspill of patrons, full control of patrons cannot be guaranteed.

6.23. The precedents cited are from all over the country and the detail of the circumstances are unknown. The first parties do not wish to be drawn into an argument by citing precedent of public houses and smoking areas which have been given favourable consideration. This case must be assessed on its own merits. The threat to children playing in front gardens is exaggerated.

6.24. **Gainger Acoustics Ltd Acoustics Report**

Normally sound and noise nuisance coming from such developments is principally concerned with music sound being heard late into the night. It is difficult to imagine how that might be the case, in this case, as the premises is too small.

The smoking area is shielded from the nearest residential property by the development itself. Other residential properties are much farther away and less likely to be impacted.

Background noise levels were measured during events at both local hotels on the 4th March 2017. The results LAeq 53.4dB L_{Aeq 30 min}; L_{AMax} 76.1dB; LA90 37.8 dBA, typical of a small town at these times and under similar conditions.

Prediction smoking area – 80 dB at 1 metre is assumed (loud conversation). A barrier effect of 20 dB due to the building, sound source close to building, equivalent to a path difference of 1m at 1000Hz. 15dB reduction due to a partially open window.

Sound predicted at closest dwelling 15.5dB 16dB rounded not significant. There is nothing to predict music breakout; no indication of food preparation or vent/extract noise.

No overall change, inclusive of the new noise source.

6.25. **Porter Consulting Engineers have compiled a report on Wastewater Loading Calculations for Proposed Public house at Ballyliffin, Co Donegal for Glashedy Investments Ltd.** Change of use from a three bedroom dwelling house to a public house.

Max occupancy - 6pe.

150 litres / person and organic loading of 60 grams BOD/person per day

Hydraulic 900 l/day BOD 360 (gBOD/day)

Public house 1.5 bar staff x 60 l/day = 90l/day

35 drinkers x 10 l/day 350l/day total 440l/day

Organic 1.5 staff x 30 gBOD/day = 45 gBOD/day

35 x 10 gBOD/day = 350gBOD/day total = 395gBOD/day.

Reduction in maximum volume of wastewater discharging to the public sewer from 900l/day to 440l/day. A marginal increase in organic loadings 360gBOD/day to 395gBOD/day. This small increase of 35gBOD/day will have a negligible effect in the context of the scale of the overall public sewage infrastructure.

6.26. **Letter of consent from adjoining owner** to use of his driveway as a loading and delivery area.

6.27. **Letter from an Auctioneer & Estate Agent and a Chartered Surveyor Auctioneer Valuer & Estate Agent**, neither of whom would anticipate any change in the value of houses in the vicinity.

7.0 Further Responses

7.1. A response to the first party's response to the grounds of appeal, on behalf of **Bernard Grant** includes:

7.2. Re. petition, some signatures are signed by same person, some are employees of first party, some are from outside the village centre.

7.3. There are fire safety concerns with closure of the front door.

7.4. The new loading bay is outside the site. Premises has insufficient space for storage and staff parking.

7.5. Parking congestion, photographs of common occurrence from Easter onwards to September.

7.6. Noise – survey was carried out in March when the environs would not be at their noisiest. Additional noise in the smoking area is conceded.

- 7.7. Sewerage – there was one occupant of this house that is one sixth of that claimed. The respective figures would be 150l/day hydraulic and 60gbod/day as opposed to 440l/day and 395gBOD/day; therefore significant increases.
- 7.8. Security cameras if mounted on the premises would be a further invasion of privacy.
- 7.9. A similar response to the first party's response to the grounds of appeal was submitted on behalf of **Bried Doherty (nee Grant), Marian Fagan (nee Grant), and Daniel Grant.**

8.0 **Observation**

- 8.1. Susan McGonagle has submitted an observation supporting the application. The proposed development will give employment in an area where it is badly needed and where employment in hotels has helped to sustain families and keep children in college.

9.0 **Assessment**

- 9.1.1. The issues which arise in relation to this appeal are appropriate assessment, the principle of the development, wastewater capacity, residential amenity, traffic and parking and the following assessment is dealt with under these headings.

9.2. **Appropriate Assessment**

- 9.2.1. Having regard to the nature and scale of the proposed development and nature of the receiving environment 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.

9.3. **Principle of the Development**

- 9.4. The site is located within the settlement boundary of Ballyliffin, as set out in map 24 of Appendix A to the Donegal County Development Plan, 2012-2018. The aim of the plan in relation to these Tier 4 settlements, which are small villages and include the settlement of Ballyliffin, is their protection & consolidation. The plan provides that

proposals for development within these settlements will be treated on their merits, with special focus on wastewater constraints.

- 9.5. In so far as the proposed use is related to tourism the Plan aims to develop sustainable tourism throughout the County.
- 9.6. In my opinion the proposed development is acceptable in principle.
- 9.7. **Wastewater Capacity**
- 9.8. The details of the wastewater deficiency in the area is not documented on the file, but the first party accepts that there is deficiency and seeks to justify the proposal by demonstrating that the proposed development will not impose a significantly greater load, in terms of hydraulic loading or organic loading (BoD), on the treatment system, than would be expected for a dwelling of this size. In this regard it is the first party's assertion that this is a three bedroom / 6 person house.
- 9.9. The fact that a single person occupied the dwelling in the recent past is not relevant. It is the likely occupancy of a dwelling of this size that has to be considered. The Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, published by the Department of the Environment, Community and Local Government, in December 2015, sets out standards for apartments including minimum sizes, stating that a minimum floor area of 73 sq m is required for a two bedroom apartment. Minimum bedroom floor areas are set as 7.1 sq m for a single bedroom and 11.4 sq m for a double bedroom. The minimum aggregate bedroom floor areas for two bedrooms is 24.4 sq m. Based on these standards the bedrooms labelled as bedrooms 1 and 2 on the drawings submitted could each be considered double bedrooms. Together they reach the minimum aggregate area required (24.4sq m) and the existing dwelling, which is stated to be 74sqm in area, equates to a 4 person house, rather than a 6 person house.
- 9.10. The estimates presented with the application, which are based on a comparison of the proposed to existing loading, underestimate the relative increase in the wastewater loading on the system which is already overcapacity. In my opinion the capacity of the proposed pub, given as as 35 drinkers in any one day, is also an underestimate.

- 9.11. The development plan states that where there is no wastewater capacity, the planning authority may require on-site treatment. Having regard to the size of this site such a proposal would not be feasible.
- 9.12. The Board should note previous refusals of permission, for development in this village, based on the inadequacy of the sewerage system.
- 9.13. Under ref 05.128370 (PA Reg Ref 01/4992), the Board, 2nd September 2002, refused planning permission for the construction of an hotel in Ballyliffin, for reasons which included the deficiencies in the sewerage system. From the documentation on the subject file it appears that the deficiencies have not been overcome in the intervening period.
- 9.14. The inadequacy of the sewerage system and the increase in loading, to which the proposed development would give rise, is a reason to refuse permission.
- 9.15. **Residential Amenity**
- 9.16. The potential for impact on residential amenity is a feature of the mixed use nature of many town centres. The existing use of this property as a dwelling provides a buffer to the third party dwelling from the adjacent Ballyliffin Lodge Hotel and Spa but the Strand Hotel is directly across the road and the public car park is also on the opposite side of the road. It is likely that there is already some impact on the residential amenities of the third party dwelling having regard to its location within a settlement where the night time economy is important.
- 9.17. Notwithstanding the estimates for noise impact which have been produced on behalf of the first party which are based on the assumption that there will be no music in the premises, I do not accept that the use of the outdoor smoking area will not give rise to noise nuisance or that the noise associated with the change of use will not be noticed at the adjoining residential property. Nevertheless the site is in a settlement where the protection of residential amenity, must be balanced against other issues. Tourism is clearly an economic driver for this area and region and the proposed development would increase available capacity for the night time economy.
- 9.18. I am satisfied that the impact on residential amenity can be mitigated by conditions, such as the prohibition of amplified music on the premises and the reservation of an area of 2m depth along the side boundary with the third party, where landscape

design at the front of the premises and a wall at the back of the premises could exclude use by the public. The impact on residential amenity should not be a reason to refuse permission.

9.19. Traffic and Parking

9.20. Parking provision is shown to the front of the building and to the rear. The parking to the rear requires use of a very narrow passage along the side of the building. The parking to the front would require removal of the front boundary wall and the lowering of the garden area which is higher than the road/ footpath. It would also impact on the use of the public footpath by pedestrians. I do not accept that there is any capacity, within the site, for parking.

9.21. I accept that the increase in activity in the area during the summer months, including access to the sea shore, which uses the road to the front of the site, gives rise to additional traffic; and that the hotels and other premises in the settlement generate parking demand which increases at certain times and can contribute to traffic congestion. However, this is a settlement designated as a village development centre and it is capable of accommodating development such as is proposed, which, in terms of the traffic generated and the parking required is of relatively small scale.

9.22. There is public car parking available either on-street or off-street in the vicinity of the site. Notwithstanding that there is stated to be a capacity issue regarding car parking I do not consider this to be a reason to refuse permission. A contribution in lieu of provision could be conditioned,

10.0 Recommendation

10.1. In accordance with the foregoing assessment I recommend that planning permission be refused for the following reasons and considerations.

11.0 Reasons and Considerations

Having regard to the existing deficiencies in the sewage treatment system serving Ballyliffin it is considered that the proposed development would generate additional waste water which would exacerbate the existing deficiencies, impacting on the environment and public health and would therefore be contrary to the proper planning and sustainable development of the area.

Planning Inspector

25th July 2017

Appendices

- 1 Photographs
- 2 Extracts from Donegal County Development Plan 2012-2018