



An  
Bord  
Pleanála

## Inspector's Report PL03.248292

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| <b>Development</b>                  | Construct a B&B with private apartment & install a WWTS |
| <b>Location</b>                     | Doolin, County Clare                                    |
| <b>Planning Authority</b>           | Clare County Council                                    |
| <b>Planning Authority Reg. Ref.</b> | 16/541  |
| <b>Applicant(s)</b>                 | Marian & Frank Sheedy                                   |
| <b>Type of Application</b>          | Permission  |
| <b>Planning Authority Decision</b>  | Grant permission  |
| <b>Type of Appeal</b>               | Third Party   |
| <b>Appellant(s)</b>                 | Pat, Joan, Bernice & David O'Connor                     |
| <b>Observer(s)</b>                  | None  |
| <b>Date of Site Inspection</b>      | 6 <sup>th</sup> July 2017                               |
| <b>Inspector</b>                    | Karla Mc Bride  |

## 1.0 Site Location and Description

The appeal site is located Doolin in west County Clare and the surrounding area is rural in character. The site is located within a village settlement which contains several houses, hotels and B&Bs, a craft centre and a campsite. The site is located on the NW side of the local road and to the rear of the Doolin Irish Crafts Centre. It is bound to the SE by the craft centre car park and a detached B&B and to the N by the Aille River with O'Connor's campsite, hostel and beyond. Access to the site is via a long narrow driveway off the public road which is located between the craft centre car park and the B&B. The roadside boundary to the SE is undefined, the side boundaries are defined by a mix of hedges and fences whilst the riverside boundary to the N is defined by riparian vegetation. The site slopes down from SE to NW towards the Aille River.

Photographs and maps in Appendix 1 describe the site and surroundings in more detail.

## 2.0 Proposed Development

2.1. Planning permission is being sought to build a 2-storey B&B with residential unit:

- The c.386sq.m. building would occupy a c.0.313ha site.
- The B&B would contain 4 bedrooms & the apartment would have 1 bedroom.
- The WWTS would be located in the rear NW section of the site.
- Vehicular access would be via a 5m by 72m driveway.
- Three car parking spaces would be located in the S section of the site.

The application was accompanied by:

- A Site Characterisation report
- Flood Risk Assessment report

## 3.0 Planning Authority Decision

### 3.1. Further Information

Further Information was requested in relation to:

- Completion of Part 2(a) of the planning application from in relation to the requirement for a private dwelling and details of its relationship to the B&B - *details submitted and the apartment will be occupied by B&B staff.*
- Revised Site layout to show the relationship of the vehicular access to the public road along with visibility splays, which have regard to the proposed public footpath – *submitted, the sight lines will be greater than 90m and the junction with the road incorporates the Part 8 proposals for a public footpath.*
- Demonstrate that the proposed access driveway is of an adequate width and design to allow for simultaneous access and egress of vehicles – *the driveway will be 5m wide which is sufficient for B&B traffic and a layby will be provided and letter of consent submitted in relation to layby from adjoining landowner.*
- Demonstrate legal interest in the entirety of the access and driveway – *details submitted along with a letter of consent from adjoining landowner.*
- Revised Site Layout that relocates the footprint of the building away from the Open Space area along the River Aille - *building relocated outside this area and the separation distance between the building and the polishing filter to the E will reduce from the recommended 28m to c.24m as a result.*
- Submit confirmation that the proposed location of the polishing filter is similar to the where the site assessment was undertaken and that ground conditions are consistent at both locations - *confirmation submitted.*
- Submit a revised response to Qu.18 of the planning application – *submitted.*
- Provide details of all signage - *submitted.*
- Provide details of the location and design of onsite bin storage and compost areas - *located to the NW of the building and screened with streusel fencing.*

Clarification of Further Information was requested in relation to:

- Submit revised proposal for the building footprint in order to achieve a 28m separation distance from the WWTS as per EPA requirements - *submitted*.

### 3.2. **Decision**

Following the receipt of Further Information and clarification of Further Information, the planning authority decided to grant retention planning permission subject to 10 standard conditions. Condition no.5 required that the private accommodation should not be let or sold as a separate dwelling unit from the main B&B use.

### 3.3. **Planning Authority Reports**

#### **Planning Reports**

The County Council decision reflected the recommendation of the planning officer.

#### **Other Technical Reports**

**Environment section:** FI requested in relation to the location of the polishing filter relative to the where the site assessment was undertaken and confirmation that the ground conditions are consistent at both locations. Clarification of FI was requested in relation to the proposed relocation of the building relative to the WWTS, as a 28m separation distance must be achieved. No objections after the receipt of Clarification of FI in relation to new layout with minimal impact on the Aille River anticipated.

**Roads Department:** Noted that the road frontage section is dedicated to the Council for the provision of a footpath.

### 3.4. **Prescribed Bodies**

**An Taisce:** raised concerns in relation to: - compliance with relevance planning policies; design; flood risk; road safety; and consideration of alternative sites.

### 3.5. **Third Party Observations**

One letter of objection received from the owners of O'Connor's campsite to the N of the appeal site who raised concerns in relation to:- inadequate site suitability assessment; water usage; non-compliance with EPA; inadequate details for the

WWTS; excessive scale at elevated location; overlooking of neighbouring campsite; adverse impact on rural character and views from the campsite; site more suited to a traditional cottage; difficult access arrangements; non-compliance with zoning (residential unit); and impact on open space along the river; and procedural issues.

Two letters received from public representatives.

## 4.0 Planning History

### Appeal site:

**Reg. Ref. 15-822:** withdrawn application to construct a B&B with private residential accommodation and WWTP because of concerns raised by the PA in relation to flood risk, overdevelopment, zoning, WWTP separation distances and access.

### South & East of appeal site:

**Reg. Ref. 18-8008:** withdrawn Part 8 application for a public footpath along the road to the S of the appeal site. New application pending.

**Reg. Ref. 13-298/PL03.242398:** permission granted for an interactive visitor centre with associated retail and car & coach parking.

**Reg. Ref.11-686:** permission refused for a campsite with associated facilities for 3 reasons related to: - the inadequacy of the proposed WWTS and the potential for inundation of the polishing filter when the river is flooded; absence of footpaths and public lighting along the road network; and inappropriate building, scale and design.

**Reg. Ref. 09-1068/PL03.236188:** permission refused for a campsite with associated facilities for 2 reasons related to: - the existing deficiency in the provision of sewerage facilities; and material contravention of Objective OS1 of the LAP in relation to the maintenance of a 10m margin along the river bank, risk of water pollution, interfere with a flood plain and prejudice the provision of an amenity walkway through the site as per Objective TOU3 of the LAP.

### North of appeal site:

**Reg. Ref. 12-563:** Permission granted to extend the service block and provide a laundry, wheelchair accessible shower and WC at existing campsite.

**Reg. Ref.04-2662/PL03.213764:** permission refused on appeal for a residential development comprising 26 units on the campsite lands (c.1.7ha) for 3 reasons related to:- existing deficiency in the provision of sewerage facilities; suburban style design and layout, proximity to public road and River Aille, failure to enhance the existing character & qualities of Doolin, endanger the vegetation & structure of the river bank, and seriously injure the amenities of the area; inadequate provision of private open space and substandard level of residential amenity.

## 5.0 Policy Context

### 5.1. The Planning System and Flood Risk Management, 2009

This document provides guidance on the identification, assessment and management of flood risks in areas of potential development and they recommend a precautionary approach in relation to flood risk management. They require the planning system to: - avoid development in areas at risk of flooding, particularly floodplains, unless there are proven wider sustainability grounds that justify appropriate development and where the flood risk can be reduced or managed to an acceptable level without increasing flood risk elsewhere; adopt a sequential approach to flood risk management when assessing the location for new development based on avoidance, reduction and mitigation of flood risk; and Incorporate flood risk assessment into the process of making decisions on planning applications and planning appeals.

### 5.2. County Clare Development Plan 2017 to 2023

The site is located in a rural area that is covered by the County Clare Development Plan which includes settlement plans and zonings for the settlements of the county. The area was previously covered North Clare Local Area Plan 2011-2017 which was deemed to be revoked with effect from 21st January 2017. Doolin is now covered by the West Clare Municipal District Area Settlements (MDAS) which is contained in Volume 3(d) of the current Development Plan.

**The following general Development Plan provisions apply:**

- Doolin is a designated Large Village
- The site is located within the settlement of Doolin
- The site is located within a Rural Area Under Strong Urban Pressure
- The surrounding area is a Heritage Landscape (excluding Doolin settlement)
- The site is located to the E of a coastal SAC
- The N section of the site is located within Flood Zone A
- The rest of the site is located within Flood Zone C
- The site is located along a Walking & Cycle Route
- There are several Recorded Monuments & Protected Structures in the area.

**The following specific provisions of the West Clare MDAS apply:**

- The overall Strategy for Doolin is to provide for small scale, well-designed residential, commercial and community developments which have regard to the character of the village itself.
- The General Objectives for Doolin include the following:
  - To make provision for the sustainable growth of the village which will support existing services and encourage further expansion of the service base, whilst retaining its distinctive character.
  - To provide for the further development of a diverse tourism product which supports the year round tourism activity and enhances employment and economic activity.
- Site is located within/or close to a Tourism Growth Centre which comprises the centre of the village encompassing the area around Fitz's Cross.
- The site is mainly zoned for Tourism:
  - B&Bs are normally acceptable in principle
  - Dwellings for permanent occupation are not normally be acceptable
- The N section of the site along the Allie River is zoned Open Space.
- The encroachment of Flood Zone A on some zoned land is limited to the riverside margins and buildings should be limited to Flood Zone C.

### **Development Plan objectives:**

**Objective CDP9.5 (a)** (Tourist accommodation) seeks to promote, encourage and facilitate the provision of new visitor accommodation and the expansion/upgrade of existing hotels, guesthouses, B&Bs and other tourist accommodation at appropriate locations throughout the county.

**Objective CDP14.14** (River Corridors) seeks to: - protect and manage river corridors and their floodplains; protect riparian zones and their associated habitats & species; protect and improve appropriate access to river corridors whilst conserving and protecting natural resources & water quality; and to encourage development proposals to maintain an appropriate width for the riparian zone to be protected.

### **Development Plan standards (rural residential development):**

**Siting and Design:** PA seeks to achieve a high standard of house design and siting in the countryside and regard should be had to the Rural House Design Guide.

**Road Frontage:** A minimum frontage of 30m is normally required.

**Plot Size:** Minimum site area of 0.2ha required to accommodate a rural dwelling.

**WWTS:** Site conditions must be suitable for the treatment & disposal of effluent.

**Car parking:** should be located to the rear of building lines where possible.

- 1 space per 1 or 2-bedroom unit (apartment)
- 1 space per bedroom & 1 space per 3 staff on duty (B&B)

### **5.3. Natural Heritage Designations**

The site is located with 15k of the following European sites:

- Black Head to Poulsallagh Complex SAC & pNHA
- Cliffs of Moher SAC



## 6.0 The Appeal

### 6.1. Grounds of Third Party Appeal

- Adverse visual and amenity impact on neighbouring campsite, hostel & B&B.
- No objection to a reasonably scaled development on the 0.5ac site.
- History of proposals for the site that constitute overdevelopment.
- Non-compliance with Objective TOU10 in relation to proximity to Aille River & flood zone and the strategic vision for the area which seeks to promote sustainable growth at a scale appropriate to the existing settlements in a planned manner (Sections 3.2 & 3.2.2 and Objectives CPD3.9 & 10.
- No evidence of a particular need for the proposed service, no evidence of lack of capacity, and there are a lot of other compatible uses for this tourism zone.
- Non-compliance with Sections 17.1 in relation to design and the built environment and Objectives CDP 17.1, 17.4.1 & 17.4 in relation to the public realm, sense of place and siting.
- Non-compliance with Objective CDP 9.4 & 9.5 in relation to appropriately located and scaled tourism related development
- Non-compliance with Rural Housing Design Guide in relation to design and scale of the building relative to the size, scale and slope of the site, proximity to boundaries, the surrounding landscape and residential amenity.
- The Site Suitability Assessment is the same as the report submitted with the recently withdrawn application; there was no indication where the trial or the percolation test holes were assessed; bedrock was encountered at 2m BGL; the proposed WWTS would occupy a different location with potentially different site characteristics and the T values vary throughout the site, which could have implications for the safe operation of the polishing filter.
- The proposed daily water usage is 1000 litres per day which is the same as for the previously withdrawn larger proposal for the site.
- No details of the mechanical aeration system or the modular reed bed treatment, with no evidence of how tertiary reed beds operate in cold weather.

- This back land site is less than 0.5ac when the driveway and riverside buffer is deducted and the proposal represents an overdevelopment of a small site in a sensitive environment in an area that is under Strong Urban pressure.

## 6.2. Applicant Response

### **Planning policy:**

- Proposal complies with the overall planning strategy for Doolin.
- Proposal complies with the general objectives for Doolin and in particular those which seek to make provision for the sustainable growth of the village and to provide for further development of a diverse tourism product.
- The site is located within the heart of the Tourism Growth Centre.

### **Scale and design of building:**

- The c.386sq.m building would not constitute an oversized overbearing tourism facility giving the location and tourism zoning objective.
- There are two recent developments on either side (B&B and craft centre).
- The proposed B&B would be located at the same level as the Appellant's B&B on the opposite side of the river with a c. 57m separation distance, and their B&B is closer to the campsite than the proposed B&B.
- The proposal is affected by significant environmental constraints: - the river and its floodplain; an open space strip on the N side of the site along the river; and a sterilised area on the E side of the site as a result of the existing WWTS which serves the craft centre.
- These constraints dictate that the site can only accommodate a relatively non-intensive of development, despite its location and zoning, such as the proposed B&B, which does not constitute overdevelopment.

### **Waste Water Treatment System:**

- Doolin has thrived as a tourism centre despite the absence of a public WWTS and all new developments have to be serviced by on-site plants.

- The lengthy assessment by the Council sought to achieve a layout that would satisfactorily accommodate a new WWTS and ensure a minimum separation for the B&B of 28m from the existing new WWTS on the site to the W.
- The Site Characterisation report concludes that the site conditions are suitable for direct discharge without site improvement, but given the restricted nature of the site, the system should incorporate mechanical aeration unit with a 4-reedbed module discharging to a polishing filter.
- The recommended system has a capacity PE of 18, whilst the expected maximum B&B occupation is 10 persons, and the Council's Engineer was satisfied with the proposed arrangements.
- The revised layout by way of Clarification of FI maintains a 10m wide riverside buffer and a 28m separation distance from the WWTS.

### 6.3. **Planning Authority**

Request the Board to uphold the decision of the planning authority.

### 6.4. **Prescribed Bodies**

The appeal was circulated to the DAHG, Heritage Council, Inland Fisheries Ireland, An Chomhairle Ealaíon and Fáilte Ireland with no Responses received.

### 6.5. **Observations**

None received.

## 7.0 Assessment

The main issues arising in this case are:

- Principle of development
- Design, layout & visual amenity
- Flood risk
- Environmental services
- Vehicular access
- Other issues

### 7.1. Principle of development

The applicant is seeking planning permission to construct a 4-bedroom B&B and a private 1-bedroom apartment which would be used as staff accommodation. The site is located within a designated Large Village and either within or close to a Tourism Growth Centre, and on lands which are covered by the Tourism objective in the County Clare Development Plan 2017 to 2023 (which incorporates the West Clare Municipal District Area Settlements). B&Bs are normally permitted within this zoning objective whilst permanent residential accommodation is not, although it is noted that the proposed apartment would provide staff accommodation for the B&B. The proposed development would be compatible with the objectives for the surrounding area and the appeal site lands, and is therefore acceptable in principle. However, the private residential unit should be permanently retained as an integral part of the main B&B use of the building, which could be addressed by a planning condition.

The N section of the site along the Aille River is covered by the Open Space objective in the West Clare Municipal District Area Settlements section of the Development Plan. It is noted that when the planning application was lodged, both the County Clare Development Plan 2011 to 2017 and the North Clare Local Area Plan 2011-2017 were in place. The LAP also contained an objective to zone a band of land along the Aille River as Open Space and

Objective OS1 required the maintenance of a 10m margin along the river bank. The proposed building would not encroach into the lands covered by the Open Space objective and 10m margin would be retained.

## 7.2. Design, layout and visual amenity

**Original proposal:** The proposed “L” shaped 2-storey building would be c.8m to 14m wide, c.7m to 20m deep and c.7m high with a suburban style design. It would be set back c.80m from the roadside boundary and c.6m from the S site boundary with the craft centre car park; c.12m from the W site boundary with the lands to the rear of the craft centre and c.28m from the adjacent WWTP; and between c.8m and 12m from the banks of the Aille River to the NE. The building would also be set back in excess of 50m from any neighbouring houses and B&Bs. The footprint of the building would encroach into the 10m margin along the Aille River.

**Amended proposal (FI):** The proposed design and layout of the building would remain the same but the footprint was relocated away from the 10m margin along the river. It would be set back c.84m from the roadside boundary and c.10m from the S site boundary with the craft centre car park; c.8.5m from the W site boundary with the lands to the rear of the craft centre and c.22m from the adjacent WWTP; and between c.10m and 14m from the banks of the Aille River to the NE. The footprint of the building would not encroach into the 10m margin along the Aille River, although the NE corner would be located very close to it. The revised layout reduced the separation distance with the adjacent WWTP from 28m to 22m.

**Amended proposal (clarification of FI):** The proposed design, layout and footprint would be altered. The proposed rectangular shaped 2-storey building would be mainly c.7m wide, 27m deep and c.7m high. It would be set back c.81m from the roadside boundary and c.5m from the S site boundary with the craft centre car park; c.13m from the W site boundary with the lands to the rear of the craft centre and c.28m from the adjacent WWTP; and 11m from the banks of the Aille River to the NE.

## **Discussion:**

The proposed development is located within Doolin Village which is a designated Large Village in the Development Plan. The surrounding lands outside the village settlement are designated as a heritage Landscape, there is a Scenic Route c. 150m to the E of the site at the Fitz's Cross, the site does not contain any built heritage features and it does not lie within the line of any protected views or prospects.

The building, as amended by clarification of FI, would run along a SE to NW axis through the site with the narrow SE section (c.7m) facing the road and the wider NE section (c.27m) overlooking the Aille River. The new linear layout presents as a more rural and less suburban style of building. The revised design and layout are considered acceptable and the proposed development would not have an adverse impact on the visual amenities of the area or any heritage features.

The concerns raised by the Appellants who own and operate the neighbouring campsite, hostel and B&B on the opposite side of the Aille River are noted in relation to the visual impact of the proposal on their tourism business and Doolin Village. However, the proposed development would be located within a Large Village Settlement and within or close to a Tourism Growth Area and on lands that are zoned for Tourism in the current Development Plan.

It is also noted that the NW half of the site slopes down towards the Aille River and the proposed building would be located on the most elevated and level part of the site. However, the N section of the building would be located c.10m from the river bank which is characterised by a band of indigenous riparian vegetation. This natural feature along with the river bank should be protected during construction works by the erection of a fence which could be required by way of a planning condition.

The proposal would comply with most of the site development standards set out in the Development Plan, with the exception of the 30m roadside frontage which cannot be achieved because of the back land location of the site.

Although the roadside boundary would c.5.5m, the proposed building would be located to the rear of the adjacent craft centre and car park which has a

road frontage of c.68m. Therefore, the proposed development would not have an adverse impact on the visual amenities of the streetscape.

### 7.3. Flood risk

The c.0.313ha site is located on the S side of the Aille River which flows into the sea at Ballaghaline to the W although this section of the river is not tidal. The N section of the site is located within Flood Zone A whilst the more elevated S section is located within Flood Zone C. The probability of flooding from rivers is highest (greater than 1% or 1 in 100) within Flood Zone A and lowest in Flood Zone C (less than 0.1% or 1 in 1000). The OPW Flood Hazard Maps indicate that there have been no recorded flood events in the vicinity and OSi maps do not describe the site as being liable to flood.

The proposed development, including the building, car park and WWTS would be located entirely within Zone C although the N section of the building and the WWTS polishing filter would be located in close proximity to Zone A. The Planning System and Flood Risk Management Guidelines define a dwelling house and associated site works as highly vulnerable development within Flood Risk Zones A & B and a Justification Test is required, whilst a dwelling house and associated site works are defined as appropriate in Zone C.

Given that the appeal site is located within Zone A and Zone C, the Applicant submitted a Flood Risk Assessment Report which examined whether or not the proposed development is at risk of flooding or if it would increase the risk of flooding elsewhere. A Three Stage Approach to the assessment was undertaken, the risks were identified risks and mitigation measures outlined.

The FRA report states that the Aille River does not have any artificial flood defence embankments but it does have a natural bank, and that water flow at this section is restricted in times of flood by the bridge c. 90m to the E of the site. The highest level in the site is 101.42m at the entrance and the lowest level is 96.48m on a ledge beside the river, and the water level was recorded at 95.94m and the invert of the river at 95.47m. The plinth of the bridge to the E of the site was recorded at 98.17m and once the water comes through the bridge the level reduces as the river bed has ample capacity.

The report states that the proposed FFL of the building would be 100.0m which is c.4.06m above the water level recorded during the survey. Anecdotally, the river has only ever flooded to a maximum height of c.96.5m which is c.3.5m below the proposed FFL, there are no recorded instances of the river breaching its banks along this section in times of flood, the neighbouring houses which have lower FFLs have never been flooded, and old OSi maps do not identify the area as being "liable to flood".

The report states that fluvial flooding is unlikely to occur and that adequate storm water drainage will minimize the risk of pluvial flooding and the site is located up-gradient of a critical drainage area. An assessment of climate change scenarios indicated that extreme rainfall depths and flood flows may increase at this site by 20-30%, therefore an extreme flood level at the Aille River by c.168mm to a height of 96.66m.

The report recommended standard flood risk mitigation measures which include no alterations to the river bank; maintenance of the flood plain at the NE of the site; permeable road surfaces to reduce run-off; and the storm water pipes to the river should have an invert level above 96.8m.

The report concluded that, provided the mitigation measures are implemented, the proposed development will not directly increase flood risk elsewhere through displacement of flood water or alteration of flows paths and that it is acceptable in terms of flood risk.

Having regard to the location of the proposed development mainly within Flood Risk Zone C, the applicant's FRA report, the OPW Flood Hazard Maps, the OSi historical maps for the area, the site levels, and my assessment of the site and the surrounding area, I am satisfied that the proposed building and associated car parking and driveway would not be at risk of flooding or give rise to a flood risk. This is subject to the full implementation of the mitigation measures outlined in the applicant's FRA report, and any other requirements of Irish Water or the planning authority. Any outstanding concerns related to the proximity of the proposed WWTS to Flood Zone A will be addressed in the following section.



Finally, it is noted that the Appellant referred to Tourism Objective TOU10 in the West Clare MDAS section of the Development Plan which relates to water quality, flood zones and emergency access along the Aille River. However, this objective appears to be site specific for the lands to the E of the site in the vicinity of Silt Island.

#### **7.4. Environmental services**

The proposed development would be served by a new connection to the mains water supply and wastewater would be disposed of by way of an on-site wastewater treatment system (WWTS). It is noted that Doolin Village is not served by a public WWTS and that the Development Plan does not contain an objective to provide a facility during the lifespan of the plan.

The appeal site is located within Flood Zone A and Flood Zone C. The proposed development would be mainly located within Flood Zone C although the proposed WWTP would be located either partly within or in very close proximity to Flood Zone A. The application was accompanied by a Site Characterisation Report and a Flood Risk Assessment Report.

The EPA Wastewater Treatment Manual - Treatment Systems for Small Communities, Business, Leisure Centres & Hotels 1999 - Table 4 requires a minimum separation distance of 28m between systems with a population equivalent (PE) of greater than 10 persons. There is a permitted WWTS for the adjoining site to the W which is occupied by a craft and visitors centre.

The proposed B&B would contain 4 double bedrooms and the proposed apartment would contain 1 double bedroom, the PE would be at least 10 and the recommended WWTS would accommodate a PE of 18. It is noted that due to the seasonal nature of tourism in the area, it is unlikely that the B&B would experience year round occupation.

The proposed WWTS would be located in the NE section of the site and the location has not been altered by way of the various amendments to the layout

and location of the proposed building. The final location of the B&B is as per the response to the Clarification of FI request received by the County Council on 3<sup>rd</sup> February 2017. This location provides for a 28m separation distance between the proposed building and the WWTS on the adjacent site to the W along with a minimum 10m separation from the Aille River to the N, which is considered acceptable in terms of residential amenity and environmental protection.

The c.0.313ha site slopes down gently from SE to NW towards the river (from c.101m to c.98m). The N section along the river is located within Flood Zone A whilst the more elevated S section is located within Flood Zone C. The proposed WWTS would be located in the NW section of the site and to the rear of the proposed house where the levels range from c. 96m to 98.5m. The system would comprise a mechanical aeration unit, a reed bed unit and a polishing filter. The system would be located within Flood Zone C although the NE section of the polishing filter would be located in close proximity to Flood Zone A. The vegetation does not indicate that the site is prone to water-logging, the ground was firm underfoot, there are no rocky outcrops or any sign of surface water ponding and there are no drainage ditches on the site.

The Applicant's Site Characterisation Report stated that Grey Brown Podzolic soil overlies Limestones bedrock (DPBL), the underlying Aquifer is regionally Important (Rk) with Extreme Vulnerability, there is a Groundwater Protection Scheme in place and that the Groundwater Protection Response is stated as R2<sub>2</sub>. The report stated that the soils are free draining with good percolation properties, and given that no well is proposed, the Groundwater Protection Response rating of R2<sub>2</sub> is acceptable subject to normal good practice with 2m unsaturates and suitable solid beneath the invert of the percolation trench for a septic tank system, or 1.2m for a more advanced system.

The applicant's on-site assessment provided a similar description of the site as outlined above by the Inspector. The report stated that the site looks suitable for the treatment and disposal of wastewater at the proposed

percolation area/polishing filter in NW section, provided that the separation distances from site boundaries, watercourses and buildings are observed.

Trial hole tests were undertaken, suitable soil was revealed to a depth of 2m when bedrock was encountered. Percolation "T" tests were undertaken for three test holes the results under the Standard Method (where  $T_{100}$  less than or equal to 210 minutes) ranged from 13.75 to 16.50 to 20.00. The average T-Value is 16.75 mins/25mm at a depth of 1-1.2m. The T-Value was 0.00 under the Modified Method and a P- Value Test was not undertaken.

The report concluded that the site is suitable for both a septic tank with percolation area and a secondary treatment system with discharge to groundwater. The report recommended the installation of a secondary packaged wastewater treatment system with a polishing filter, with discharge to groundwater and a trench invert level of 98.20m. The system should comprise a mechanical aeration unit with a PE capacity of 18 followed by 4 reed bed modules to achieve direct discharge to the polishing filter which should have a surface area of 75sq.m.

The Environmental Services report noted that the WWTS has been relocated to an area slightly away from where the trial holes and site assessment was undertaken under a previous application which was subsequently withdrawn. Although is likely that the ground conditions are similar, the report stated that this should be confirmed by the site assessor. This confirmation was received by way of the FI response and the Council was satisfied with the reply.

The technical concerns raised by the Appellant are noted in relation to the suitability of the site to accommodate a WWTS. However, they are not significant and in particular, the site area (0.313ha), even if reduced by the omission of the long driveway (c.400m) would still be in excess of 0.2ha.

Having regard to the location of the proposed development mainly within Flood Zone C, the site area and environmental characteristics, the separation distances from site boundaries, neighbouring buildings and neighbouring WWTSs, the set back from the Aille River, and the applicant's Site Characterisation Report and Flood Risk Assessment, and my assessment of

the site and the surrounding area, I am satisfied that the site is suitable for the installation of a secondary WWTP. This would be subject to the installation of the treatment system recommended in the Site Characterisation Report which should have a stated PE of 18, and the implementation of the mitigation measures contained in the Flood Risk Assessment Report, and any requirements of Irish Water or the planning authority. The proposed development would not give rise to ground water pollution or affect water quality in the Aille River to any significant extent, it would not be prejudicial to public health or seriously injure the amenities of neighbouring properties.

#### **7.5. Vehicular access**

Vehicular access to the proposed B&B and apartment would be off the public road to the SE and via a new driveway which would be c.72m long and c.5.5m wide. It is noted that the Council has a long term objective to provide a public footpath along the road and the proposed entrance arrangements take account of this. The sight lines are adequate in either direction and the applicant has submitted a letter of consent from the adjoining landowner in relation to any works required at the entrance. Although the proposed driveway would be narrow, it is noted that the B&B would provide 4 guest bedrooms and that arrivals and departures would usually take place at different times of the day. The proposed vehicular access arrangements are considered acceptable and the proposed development would not give rise to a traffic hazard or endanger the safety of other road uses.

The proposed development would provide from an acceptable level of off street car parking in line with Development Plan requirements.

#### **7.6. Other issues**

**Residential amenity:** The proposed development would provide for an acceptable standard of amenity for future occupants and it would not overlook or overshadow any neighbouring properties having regard to the substantial separation distances proposed.

**Appropriate assessment:** The proposed development would not affect any European Sites having regard to the nature of the works and the absence of a direct connection to any SACs or SPAs in the wider area.

**Natural heritage:** The proposed development would not affect any NHAs or pNHAs located in the wider area.

**Built heritage:** The proposed development would not affect any of the Recorded Monuments and Protected Structures located in the wider area.

**Landscaping & boundary treatment:** Full details should be submitted to the planning authority for written agreement before development commences.

**Signage:** The applicant should submit full details of the proposed signage arrangements before development commences.

**Financial contributions:** The standard Section 48 requirements apply.

## 8.0 Recommendation

Arising from my assessment of this appeal case I recommend that planning permission should be granted for the proposed development for the reasons and considerations set down below and subject to the following conditions.

## 9.0 Reasons and Considerations

Having regard to the provisions of the County Clare Development Plan 2017 to 2023, and to the nature, and scale of the proposed development, it is considered that subject to compliance with the following conditions, the proposed development would not seriously injure the amenities of the area or of property in the vicinity or give rise

to a traffic hazard. The proposed development would, therefore, be in accordance with the proper planning and sustainable development of the area.

## 10.0 Conditions

1. The proposed development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the Further Information received by the planning authority on the 19<sup>th</sup> day of October 2016 and the 3<sup>rd</sup> day of February 2017, 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. For the avoidance of doubt, the location, design, layout and finished floor levels of the proposed development shall be as indicated in the Clarification of Further Information submission that was received by the planning authority the 3<sup>rd</sup> day of February 2017.

**Reason:** In the interest of clarity.

3. The vehicular entrance and driveway shall be as indicated in the Further Information submission that was received by the planning authority the 19<sup>th</sup> day of October 2016.

**Reason:** In the interest of clarity and traffic safety.

4. The private accommodation shall not be let or sold as a separate dwelling unit from the main bed and breakfast development on the site.

**Reason:** In the interest of orderly development and to protect the amenities of the area.

5. The roof of the proposed building shall be finished in natural quarry slate which is blue-black, black or dark-grey, and the colour of the ridge tiles shall be the same as the colour of the roof.

**Reason:** In the interest of visual amenity

6. The external walls shall be finished in neutral colours such as grey or off-white.

**Reason:** In the interest of visual amenity.

7. Signage and entrance details shall be submitted to the planning authority for written agreement before development commences.

**Reason:** In the interest of visual amenity.

8. 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.

9. Water supply and drainage arrangements, including the disposal of surface water shall comply with the requirements of Irish Water and the planning authority for such works.

**Reason:** In the interest of public health and to ensure a proper standard of development.

10. The mitigation measures outlined in the developer's Flood Risk Assessment Report shall be implemented in full.

**Reason:** To ensure a proper standard of development.

11. The following wastewater treatment requirements shall be complied with:

(a) The treatment plant and polishing filter shall be located, constructed and maintained in accordance with the details submitted to the planning authority and in accordance with the requirements of the document entitled "EPA Wastewater Treatment Manual - Treatment Systems for Small Communities, Business, Leisure Centres & Hotels 1999". No system other

than the type proposed in the submissions shall be installed unless agreed in writing with the planning authority.

- (b) Certification by the system manufacturer that the system has been properly installed shall be submitted to the planning authority within four weeks of the installation of the system.
- (c) A maintenance contract for the treatment system shall be entered into and paid in advance for a minimum period of five years from the first occupancy of the development and thereafter shall be kept in place at all times. Signed and dated copies of the contract shall be submitted to, and agreed in writing with, the planning authority within four weeks of the installation.
- (d) Surface water soakways shall be located such that the drainage from the dwelling and paved areas of the site shall be diverted away from the location of the polishing filter.
- (e) Within three months of the first occupation of the development, the developer shall submit a report from a suitably qualified person with professional indemnity insurance certifying that the proprietary effluent treatment system has been installed and commissioned in accordance with the approved details and is working in a satisfactory manner and that the polishing filter is constructed in accordance with the standards set out in the EPA document.

**Reason:** In the interest of public health.

12. The site and site boundaries shall be landscaped in accordance with a comprehensive scheme of landscaping, details of which shall be submitted to, and agreed in writing with, the planning authority prior to commencement of development.



This scheme shall include the following:

- (a) A plan to scale of not less than 1:500 showing –
  - (i) The species, variety, number, size and locations of all proposed trees and shrubs, which shall comprise predominantly native species and not prunus species
  - (ii) Hard landscaping works, specifying surfacing materials which should be permeable.
- (b) A timescale for implementation

All planting shall be adequately protected from damage until established. Any plants which die, are removed or become seriously damaged or diseased, within a period of five years from the completion of the development, shall be replaced within the next planting season with others of similar size and species, unless otherwise agreed in writing with the planning authority.

**Reason:** In the interest of residential and visual amenity.

13. The banks of the Aille River shall be protected as follows:

- (a) Prior to commencement of development, the entire river bank and associated riparian vegetation that lies within the site boundary shall be protected by the erection of a stout fence not less than 1.5 metres in height. This protective fencing shall enclose an area which is 5.0 metres deep, and shall be maintained until the development has been completed.
- (b) No construction equipment, machinery or materials shall be brought onto the site for the purpose of the development until all the riverbank and riparian vegetation have been protected by this fencing. No work shall be carried out within the area enclosed by the fencing and, in particular, there shall be no parking of vehicles, placing of site huts, storage compounds or topsoil heaps, storage of oil, chemicals or other substances, or fires.

**Reason:** To protect river bank and riparian vegetation during the construction period in the interest of visual amenity, ecology and water quality.

14. The developer shall pay to the planning authority a financial contribution of €4,210.30 (four thousand, two hundred and ten euro and thirty cents) 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, as amended. The contribution shall be paid prior to 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. The application of any indexation required by this condition shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine.

**Reason:** It is a requirement of the Planning and Development Act 2000, as amended, 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.

Karla Mc Bride  
Planning Inspector  
17<sup>th</sup> July 2017