



An
Bord
Pleanála

Inspector's Report ABP 302512-18

Development	Change of use of domestic shed to part use as place of public worship, a steel tech shed, a gravelled hard standing area and upgraded entrance and site works.
Location	Doonagore, Doolin, Co. Clare.
Planning Authority	Clare County Council.
P. A. Reg. Ref.	18/436
Applicant	Anthony Cracknell
Type of Application	Permission for Retention.
Decision	Grant Permission for Retention.
Type of Appeal	Third Party
Appellant	James Leyne, Mary Leyne, and Michael Stoddard.
Date of Site Inspection	23 rd October, 2018
Inspector	Jane Dennehy.

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1.0 Site Location and Description

1.1. The site has a stated area of 300 square metres and is that of a dwelling and sheds. It is located on the south east frontage to the R478, (between the Cliffs of Moher and Lisdoonvarna) close to a cross roads at Doonagore. The dwelling is a bungalow and there are two sheds at the rear of the site. One is the steel tech shed and the other is a domestic shed. There are two vehicular entrances for the dwelling off the R478 and a third independent entrance providing access to a gravel surfaced carpark space to the south west side of the dwelling.

2.0 Proposed Development

- 2.1. The application lodged with the planning authority indicate proposals for permission for retention of:
- a. Change of use of domestic shed to part use as place of public worship,
 - b. a steel tech shed
 - c. a gravelled hard standing area and,
 - d. upgraded entrance and site works.

In a further information submission received by the planning authority on 14th August, 2018, the applicant's agent states that it is the applicant's intention to confine the use of the place worship (Bethal Chapel) to private use.

3.0 Planning Authority Decision

3.1. Decision

By order dated, 11th August, 2016, the planning authority decided to grant permission for retention subject to conditions which include the following requirements.

Removal of signage displayed on the front facade of the building in use as a chapel within three months of the date of the grant of permission. (Condition No 2.)

Restriction of use of the shed for worship to occupants of the dwelling. (Use by members of the public excluded from the grant of permission.) (Condition No 3.)

Use of the shed for commercial purposes or for human habitation excluded from the grant of permission. (Condition No 4.)

Screen planting along the south west boundary of the site (Condition No 6.)

3.2. **Planning Authority Reports**

Planning Reports

The planning officer indicated satisfaction with the proposed development.

3.3. **Third Party Observations**

Two submissions were received by the planning authority in which objections raised include concerns about:

Devaluation of property value,

Advertising signage.

Potential expansion of space in existing buildings and onto adjoining lands in the applicant's ownership and intensification of use.

Potential for traffic hazard.

Potential for noise and nuisance.

Reference is also made to enforcement history in the submissions.

4.0 **Planning History**

P. A. Reg. Ref. 17/692: Permission was refused for construction ornamental ponds gravel pathways and site works for reasons relating to impact on residential amenity

and property value, serious injury to the visual amenities of the area, the location being on a designated scenic route, close to a heritage landscape. (CDP Objectives 13.5 and 13.7); and potential adverse hydrological impact.

The existing development on the site is also subject of an enforcement file.

5.0 Policy Context

5.1. Development Plan

The operative development plan is the Clare County Development Plan, 2017-2013 according to which the site is not zoned for development and is within a “settled landscape” (CDP 13.5) and close to the “heritage landscape” immediately to the north. (CDP 13.5)

The R 478 on which the site has frontage and access is a strategic regional route the objective of which is preservation of the carrying capacity and restriction of development with direct access onto Regional routes. (CDP 8.5)

The R 478 is designated as a ‘scenic route’. (CDP 13.7)

6.0 The Appeal

6.1. Grounds of Appeal

An appeal was received from James Leyne, Mary Leyne, and Michael Stoddard on their own behalf on 7th September 2018 who are owners of properties which adjoin the appeal site and who have provided addresses of places of residence in the United States and the United Kingdom.

In the appeal it is submitted that unauthorised development described as “creeping development” involving not only structures but intensification and change of use at the site and account of which is provided. It is also argued that the applicant has a history of disregard and non-compliance in relation to planning requirements.

The appellants objections can be outlined as follows:

- The chapel building is substantial and laid out internally as a place intended for public worship and it can accommodate significant numbers which is not

necessary or consistent with use for private worship. A condition restricting the use to use by occupants of the dwelling is vague and ineffective.

- This use is not consistent with agricultural and residential use as is the existing pattern of development in the area.
- The hardstanding gravelled area for parking exceeds that which would be necessary for parking of vehicles associated with residential use of the dwelling.
- There is significant traffic congestion at Doonagore Cross close to the site location.
- Should a condition be attached for boundary planting, it should be confined to hedgerow and not include trees so that the views from the property of James Leyne and May Leyne is not affected.

It is submitted that permission should be refused in entirety. At least refusal of permission should relate to the chapel and gravelled hard standing which should be restored to their previous condition.

Attached to the appeal is some promotional literature for “Bethal Chapel” the site and photographs of the signage that was erected on the public road outside.

6.2. Applicant Response

A submission was received from the applicant’s solicitor on his behalf on 24th September, 2018 according to which the applicant refutes the allegation of a history of disregard for planning requirements. It is stated that:

- The applicant stays in Ireland for six weeks each year during which time he displays the sign on the property.
- The chapel is in the same position of an original old, one room shed with a lean to the side which had fallen into disrepair. It has been repaired, (not enlarged) with the door and window in the original position so that the applicant’s friends could worship there with him.
- The gravelled space on the property is for convenience of the applicant and those who visit. He does not wish to increase the lawn size because of

maintenance. A tractor and mower are stored in the steel shed purchased for machinery storage which is suitable for locations exposed to high winds.

- The applicant has installed new gates at the three entrances to the property. Hedges were planted, as required by condition attached to the planning authority decision to grant permission. The property is residential, and the additional property is in agricultural and consistent with the area.

6.3. Planning Authority Response

A submission was received from the planning authority on 3rd October, 2018 according to which:

- Limited numbers could be accommodated at the building which is confined in use by the applicant's and his friends' private use which takes place four or five times a year. There is no dispute over the dwelling not being the primary residence of the applicant.
- Any future extension of religious activities on the site would be subject to a separate planning application.
- The existing entrance was in place and the proposal as described in the notices, "to upgrade the entrance" is correct and it is acceptable from the perspective of visual amenity.
- The policy to protect Strategic Regional routes from a proliferation of access points the limit on new access points which relates to specific types of development is noted. (CDP 8.5 refers.) Intensification of use at the property is not restricted by this objective. There is no likely addition to traffic volumes attributable to the proposed development. The 80 kph speed limit applies and there are sightlines in both directions is circa 160 metres.

7.0 Assessment

7.1. The issues central to the determination of the decision are that of;

- 7.2. It is noted that neither the applicant or appellant parties are permanently resident at the adjoining properties, but this is not regarded as a material consideration.
- 7.3. There is considerable objection on the part of the appellant party as to unauthorised development and contentions as to disregard for planning requirements on the part of the applicant. While noted, enforcement issues are a matter for resolution by the planning authority. The assessment is confined to consideration of the development for which permission for retention is sought by the applicant.
- 7.4. The issues central to the determination of a decision on the appeal against the decision to grant permission for retention are that of:
- Nature and intensity of use,
 - Impact on residential amenity and property value,
 - Traffic safety and convenience.
 - Environmental Impact Assessment Screening.
 - Appropriate Assessment Screening.

7.5. **Nature and intensity of use**

In the case of the current proposal for permission for retention, there is a commitment by the applicant to confine of use of the chapel to himself and some of his associates as opposed to use as a place of public worship and it is stated that gatherings for worship would take place five or six times a year. However, it is agreed with the appellant party that there is an element of vagueness regarding the intensity of use of potential for significant use. The structure is internally laid out as a small chapel and it is considered suitable in capacity for attendance by persons other than those permanently resident at the dwelling. The interior of the chapel which is a detached structure, extending to circa twenty-eight square metres in internal floor area is purposefully fully fitted out as a place of worship. It is therefore considered to be a place of worship in that it has capacity for assembly for public worship. Furthermore, there is dedicated carpark use by visiting worshippers with its independent vehicular entrance separated from the dwelling and its gardens by a dense coniferous hedgerow. The capacity of both the chapel and the dedicated carpark which facilitates worshippers who are non-resident and invited to participate in worship, exceeds that which might come within the meaning ancillary use in

connection with the and subordinate to the main residential use of the dwelling. To this end, it is considered that the proposed development is unacceptable, especially at a rural site location. In this regard, the applicant has also clarified that the dwelling is not his main place of residence and that he visits Ireland and stays at the for periods of some weeks during which the chapel is used for worship by himself and visiting worshippers.

It is considered that development and land use of the nature proposed should be directed towards appropriately zoned lands within settlements and should not be located in rural areas where development unrelated to the agriculture and the rural economy should be discouraged because it undermines the consolidation of settlements where services and facilities exist and give rise to demands to uneconomic use of services and facilities and trip generation by private car which includes, traffic volumes and turning movements on strategic regional routes.

7.6. Traffic Congestion Safety and Convenience.

Notwithstanding the observations of the planning officer in the response to the appeal, it is considered that a property which has three entrances on the R478, (it not being clear of any of the entrances replaced pre-existing agricultural entrances) one of which is designated as an entrance for visiting worshippers using the hard surfaced on site carpark is a matter of concern having regard to national policy for strategic routes. It is considered that the additional traffic generation and turning movements onto and off the R478, close to Doonagore Cross Roads at the entrance for the carpark which obstructs the flow and safety of traffic is in conflict with national and local policy objectives, for the preservation of the carrying capacity and restriction of development with direct access onto Regional routes provided for in section 8.5 of the CDP. There is no justification for any discretionary flexibility in the application of this policy in that the proposed development is unrelated to the needs of agriculture or the rural economy.

7.7. Impact on residential amenity, property value and amenities of the area.

The site is within a cluster of urban generated dwellings near to Doonagore Cross on lands that are not zoned for development. The proposed development is an intensification of use of the site with an additional land-use in a detached structure

which is not ancillary to the residential use of the dwelling and is not consistent with the protection of residential amenities and property value at the cluster of dwellings. Furthermore, the interventions at the site frontage, setbacks, a significant hardstanding for carparking, separate entrance and setback at the road frontage dedicated to use by worshippers at the chapel, diminishes rather than enhances the visual amenities and landscape character which in the coastal location is designated heritage landscape.

7.8. Environmental Impact Assessment Screening.

Having regard to the minor nature of the proposed development and its location in a serviced urban area, removed from any sensitive locations or features, there is no real likelihood of significant effects on the environment. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

7.9. Appropriate Assessment.

- 7.9.1. The site is approximately one kilometre from the Cliffs of Moher SPA for which five species of birds are qualifying interests. Having regard to the minor scale and nature of the proposed development and the location at the site of an existing dwelling, no Appropriate Assessment issues arise. The proposed development would not be likely to have a significant effect individually or in combination with other plans or projects on a European site.

8.0 Recommendation

- 8.1. In view of the foregoing, it is recommended that the planning authority decision to grant permission be overturned and that the appeal be upheld and that permission for retention be refused. Draft reasons and considerations follow:

9.0 Reasons and Considerations

1. The site location is in a rural area on lands which are not zoned for development. It is considered that the proposed development by reason of the size, capacity and fit out of the interior of the detached structure facilitating assembly for worship and, the designated on site hardstanding for and

entrance for carparking by worshippers which is separated from the house and gardens is development which is not of a nature, scale and intensity that is commensurate with use for private worship ancillary to the residential use of the dwelling on the site. It is also considered that proposed development which is unrelated to agriculture and the rural economy is contrary to policies for discouragement of development unrelated to agriculture and the rural economy which give rise to demands for uneconomic use of services and facilities and contrary to the policy to direct development to locations on zoned lands within settlements the consolidation of which is encouraged according to the Clare County Development Plan, 2017-2023. The proposed development would therefore set undesirable precedent for further development unrelated to agriculture and the rural economy in rural areas outside settlements and is contrary to the proper planning and sustainable development of the area.

2. It is considered that the additional turning movements generated by the proposed development at the entrance which is directly off the R480 where a maximum speed of 80 kph applies and is close to Doonagore Cross roads obstructs the free and safe flow of traffic and as a result is in conflict with national and local policy objectives for the preservation of the carrying capacity and restriction of development with direct access onto Regional routes provided for in section 8.5 of the Clare County Development Plan, 2017-2023.

Jane Dennehy.

Senior Planning Inspector
28th November, 2018.