



An  
Bord  
Pleanála

## Inspector's Report ABP-302668-18

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<b>Development</b>	Permission to construct a dwelling with an on-site wastewater treatment system and ancillary site works
<b>Location</b>	Teergonean, Doolin, Co. Clare
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	18404
<b>Applicant(s)</b>	Brid & Micheál Shannon
<b>Type of Application</b>	Permission
<b>Planning Authority Decision</b>	Refuse
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Brid & Micheál Shannon
<b>Observer(s)</b>	None
<b>Date of Site Inspection</b>	14 December 2018
<b>Inspector</b>	Gillian Kane

## 1.0 Site Location and Description

- 1.1. The subject site is located on the western side of an unsurfaced narrow country road leading from the village of Doolin in west Clare. The subject site is located across from the ruins of Killilagh Church and Graveyard. There are a large number of one-off dwellings along the laneway, many of which are in use as B and B's.
- 1.2. The Cliffs of Moher are clearly visible to the west of the site.

## 2.0 Proposed Development

- 2.1. On the 17<sup>th</sup> May 2018 planning permission was sought for the construction of a single storey dwelling of 104sq.m. on a site of 0.23ha

## 3.0 Planning Authority Decision

### 3.1. Decision

- 3.1.1. On the 31<sup>st</sup> of August 2018 the Planning Authority issued a notification of their intention to REFUSE permission for the following reason:
  - 1 The subject site is located in the countryside, within Area of Special Control and identified as being an area under Strong Urban Pressure and a Heritage Landscape, where it is an objective of the Clare County Development Plan 2017-2023 as set out under Objective CDP3.11 to permit a new single house for the permanent occupation of an applicant subject to demonstrating compliance with the criteria set out under that objective. The Planning Authority is not satisfied based on the information submitted that the applicants comply with the criteria as set out in CDP3.11 of the Clare County Development Plan 2017-2023 and the provisions of the Sustainable Rural Housing Guidelines for Planning Authorities, published by the Department of the Environment, Heritage and Local Government in April 2005. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

### 3.2. Planning Authority Reports

- 3.2.1. **Planning Report:** No information submitted to support the applicants claims of living in Killilagh for 40 no. years. Applicants have not indicated the location of their current

residence or their future plans for the property. Proposed dwelling will not have a negative visual impact.

- 3.2.2. **Second Planning Report:** Extension of time requested. Applicants submitted unsolicited additional information: they will transfer the family home to another family member. New owner of the B&B will reside on site. Letter from solicitor stating that they have lived in Doolin, they need to move away from the business when they retire and Michael qualifies as a local rural person as he has lived in Doolin for a substantial period of his life. Letter from Failte Ireland stating that the B&B is on their register since 1992. Planner states that no documentary evidence of their link to the area of the proposed dwelling has been submitted, no evidence of a commitment to take over the business and therefore no housing need demonstrated. Recommendation to refuse permission.

## 4.0 Planning History

- 4.1.1. None on the subject site.

## 5.0 Policy Context

### 5.1. Sustainable Rural Housing Guidelines for Planning Authorities

- 5.1.1. The guidelines refer to criteria for managing rural housing requirements whilst achieving sustainable development. Among the policy aims identified for sustainable rural housing are;
- Ensuring that the needs of rural communities are identified in the development plan process and that policies are put in place to ensure that the type and scale of residential and other development in rural areas, at appropriate locations, necessary to sustain rural communities is accommodated.
  - Managing pressure for overspill development from urban areas in the rural areas closest to the main cities and towns such as the gateways, hubs and other large towns.
  - The planning authority should establish if the proposal is intended to meet a genuine rural housing need.

5.1.2. According to Map 1 Indicative Outline of NSS Rural Area Types the subject site is located in an area which is classified as being an **Area under Strong Urban Influence**.

5.1.3. The guidelines stress that development driven by cities and larger towns should generally take place within their built-up areas or in areas identified for new development through the planning process. Appendix 3 of the Guidelines state that the key development plan objectives in these areas should be on the one hand to facilitate the housing requirements of the rural community as identified by the planning authority in the light of local conditions while on the other hand directing urban generated development to areas zoned for new housing development in cities, towns and villages in the area of the development plan. In addition, policies will also normally include references to:

- The types of situations considered as constituting rural generated housing. (See also Section 3.2.2.),
- Measures that will be put in place to facilitate the availability of an appropriate level of housing options in smaller settlements for other housing requirements,
- The criteria that will be applied by the planning authority generally in assessing rural generated housing proposals e.g. in relation to evidence of an applicant's links to the area in question, and
- The measures to be adopted to ensure that development permitted to meet the requirements of those with links to the rural community continues to meet the requirements for which it was permitted.

5.1.4. The Guidelines require that new houses in rural areas are sited and designed to integrate well with their physical surroundings and generally be compatible with:

- the protection of water quality in the arrangement made for onsite wastewater disposal facilities
- the provision of a safe means of access in relation to road and public safety and
- the conservation of sensitive areas such as natural habitats, the environs of protected structures and other aspects of heritage.

## 5.2. **Clare County Development Plan 2017-2023**

- 5.2.1. **Chapter 3** deals with Urban and Rural Settlement Strategy. The aim of the Settlement Strategy is to ensure that future development is directed in a balanced plan-led manner to rural and urban areas throughout the county as appropriate.
- 5.2.2. **Section 3.2.5** refers to Single Houses in the Countryside and sets out how single houses will be accommodated in the rural areas outside of the boundaries of the towns, villages and clusters. A distinction is made between rural generated housing and urban generated housing. Regard is also had to the Sustainable Rural Housing - Guidelines for Planning Authorities (DoEHLG). These Guidelines constitute Ministerial Guidelines under Section 28 of the Planning and Development Act 2000 (as amended).
- 5.2.3. The subject site is located within an designated as an “Area of Special Control” namely an area under strong urban pressure. **Objective CDP3.11** states that it is development plan objective for new Single Houses in the Countryside within the ‘Areas of Special Control’ i.e. Areas under Strong Urban Pressure, Heritage Landscapes and Sites accessed from Scenic Routes to permit a new single house for the permanent occupation of an applicant who falls within one of the Categories A or B or C and meets the necessary criteria. To ensure compliance with all relevant legislation as outlined in Objective CDP2.1 and have regard to the County Clare House Design Guide, in particular with respect to siting and boundary treatment.

## 5.3. **Natural Heritage Designations**

- 5.3.1. The subject site is 0.9km from the Black Head-Poulsallagh Complex SAC (000020) and 2.6km from the Cliffs of Moher SPA (004005)

## 6.0 **The Appeal**

### 6.1. **Grounds of Appeal**

- 6.1.1. A first party appeal against the decision of the Planning Authority to refuse permission was submitted to the Board by an agent. The grounds of the appeal can be summarised as follows:
- The applicants are a married couple nearing retirement. They have lived in Doolin for over 40 years. Micheál was born 2km south east of their current residence in Killilagh. The Planning Authority did not request further information to clarify this.

- The Planning Authority did not request further information regarding farmland, land ownership or transfer of the business. The subject site is part of a farm being transferred to the applicant's son.
- The applicants provided the following information in the application form: 2(a) applicants retiring from local B&B in Killilagh, Doolin, self-employed guest-house operator, spouse is a retired farmer.
- Significant additional information was provided from the applicant's solicitor, accountant and Fáilte Ireland.
- As the planner deemed the proposal acceptable in principle, the Planning Authority should have requested further information as per section 3.2, 3.8, 5.3 and 5.7 of the Statutory Guidelines for Planning Authorities 2007.
- The planners report did not explain why the proposed development was refused nor explain what aspects of the Sustainable Rural Housing Guidelines were not complied with.
- The Board is requested to grant permission.
- Appeal accompanied by a map indicating the location of the guest house and the subject site.

## 6.2. Planning Authority Response

6.2.1. The Planning Authority wish the Board to take the following into consideration:

- The subject site is in an area under strong urban pressure and within a Heritage Landscape.
- The applicants must comply with Objective CDP3.11 of the development plan that requires one or both to be a 'local rural person' seeking a dwelling in their 'local rural area' and demonstrate a housing need.
- The applicants did not provide evidence of having lived in Doolin for over 40 years.
- The applicants did not indicate the location of their current residence or provide evidence to substantiate their connections to the rural area outside Doolin.
- The applicants did not advise of their intentions for the existing business in Doolin.

- The Planning Authority have concerns the proposed dwelling may be used as a holiday home.
- The proposed development is therefore contrary to Objective CDP3.11 of the Clare County Development Plan.
- The Board is requested to uphold the decision of the Planning Authority.

## 7.0 **Assessment**

7.1.1. I have examined the file and the planning history, considered national and local policies and guidance and inspected the site. I have assessed the proposed development and I am satisfied that the issues raised adequately identify the key potential impacts and I will address each in turn as follows:

- Rural Housing Policy
- Environmental Impact Assessment
- Appropriate Assessment

### 7.2. **Rural Housing Policy**

7.2.1. The subject site is located in an area designated as being under Strong Urban Influence in the Sustainable Rural Housing Guidelines for Planning Authorities. This national guidance on rural housing states that in areas under a strong urban influence the key objective should be to facilitate the housing requirements of the rural community whilst directing urban generated development to cities towns and villages. Rural generated housing is defined as being housing needed in rural areas within the established rural community by persons working in rural areas or in nearby urban areas. Urban generated housing is defined as housing sought by persons living and working in urban areas. The Applicant has not provided details of a need to live in this area nor details of employment which would define the housing need as urban or rurally generated.

7.2.2. Section 3.2.5 of the development plan states that in rural areas under strong urban pressure, genuine housing requirements of the local rural community will be facilitated subject to satisfactory site suitability. Urban generated housing shall be directed to areas zoned for new housing development in urban centres, towns and villages. Categories A, B and C are defined as Local Rural Person, Person working

full or part-time in rural areas and those with exceptional health and / or family circumstances respectively. The applicants being retired and not providing evidence of any exceptional circumstances, are assessed under Category A, the criteria for which are as follows:

- 7.2.3. The applicant must come within the definition of a 'Local Rural Person', the proposed site must be situated within their 'Local Rural Area' and the applicant must have a 'Local Rural Housing Need'. The plan defines a 'Local Rural Person' (applicant) as a person who was born within the local rural area, or who is living or has lived permanently in the local rural area for a substantial period of their life at any stage(s) prior to making the planning application. The 'Local Rural Area', for the purpose of this objective, is defined as the rural area generally within a 10km radius of where the applicant was born, living or has lived (for a substantial period of their life as per 'local rural person'). An applicant who satisfies a 'Local Rural Housing Need' is defined as a person who does not or has not ever owned a house in the surrounding rural area (except in exceptional circumstances) and has the need for a dwelling for their own permanent occupation.
- 7.2.4. As noted by the Planning Authority the area is under strong pressure for urban generated residential development. The applicants own a home and business in Doolin and therefore have no local housing need. That they wish to cease that business is not grounds for continuing the pattern of ribbon development in this unspoilt area with exceptional views. I am satisfied that the Applicant has not demonstrated compliance with national or local policy on residential development in un-zoned rural areas under strong urban influence.
- 7.2.5. The proximity of the subject site to the Cliffs of Moher cannot be ignored. The subject site has expansive and unobstructed views towards the Cliffs. It is considered that the visual impact of further ribbon development on this agricultural area, in close proximity to the ruins of Killilagh Church, would be significantly adverse. I note that the Planning Authority did not consider the visual impact to be negative. Given the substantive reason for refusal, it is not considered necessary to introduce the new issue of visual impact.



### 7.3. **Appropriate Assessment**

7.3.1. The subject site is located less than 1km from the Black Head Poulsallagh Complex SAC (site code 000020). It is described by the NPWS as a complete range of rocky Burren habitats from coastal, glacially planed limestone pavements to high level heaths. The Caher River, the only river found in the high Burren, and Fanore dunes, one of the best dune systems in Clare, are included in the site. The shoreline, littoral and sublittoral areas are also interesting because of the rock type, physical exposure, and flora and fauna communities. The site is a Special Area of Conservation (SAC) selected for the following qualifying interests:

- [1170] Reefs
- [1220] Perennial Vegetation of Stony Banks
- [2130] Fixed coastal dunes with herbaceous vegetation (grey dunes)
- [3260] Floating River Vegetation
- [4060] Alpine and Subalpine Heaths
- [5130] Juniper Scrub
- [6210] Orchid-rich Calcareous Grassland\*
- [6510] Lowland Hay Meadows
- [7220] Petrifying Springs\*
- [8240] Limestone Pavement\*
- [8330] Sea Caves
- [1395] Petalwort (*Petalophyllum ralfsii*)

7.4. There is no direct hydrogeological link between the subject site and the designated site. It is considered therefore that the risk of contamination entering a waterbody and discharging into the SAC is not likely or significant. Given the nature of the proposed development which is a single dwelling, no appropriate assessment issues arise and it is considered that 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.

## 7.5. Environmental Impact Assessment Screening

- 7.5.1. Having regard to nature of the development comprising a single dwelling there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required

## 8.0 Recommendation

- 8.1.1. I have read the submissions on file, visited the site, and have had due regard to the provisions of the Clare County Development Plan 2017 – 2023 and all other matters arising. It is considered that the proposed development does not comply with national or local policy on residential development in rural areas. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area. I recommend permission be refused for the following reason

- 1 The site of the proposed development is in a rural location in an area under strong urban pressure, in an area where housing policy CDP3.11 applies and identified as such in the “Sustainable Rural Housing Guidelines for Planning Authorities” issued by the Department of the Environment, Heritage and Local Government in April, 2005. It is considered that the applicant does not come within the scope of the criteria for housing need necessitating a dwelling at this location. The proposed development would, therefore, conflict with the provisions of the guidelines and with the policy of the planning authority and would be contrary to the proper planning and sustainable development of the area.

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Gillian Kane  
Senior Planning Inspector

17 December 2018