



An
Bord
Pleanála

Inspector's Report ABP-305404-19

Development	Pub
Location	Roadford, Doolin, Co. Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	19397
Applicant(s)	MJ Queally
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third Party
Appellant(s)	Sheila McCormack & Others
Date of Site Inspection	05 th December 2019
Inspector	Colin McBride

1.0 Site Location and Description

- 1.1. The appeal site, which has a stated area of 0.3 hectares, is located within the settlement of Doolin at the junction of the L-50702 and the R479. The site is currently in agricultural use. The appeal site is defined by the L-50702 to the south, the R479 to the west and the Aille River to the north of the site. The boundaries of the site are defined by low stone walls along the southern, eastern and western boundary and an open boundary to the river to the north. Levels on site fall moving from east to west with a fall in level also apparent towards the river to the north. Adjoining uses include a single-storey dwelling to the east of the site, agricultural lands to the south on the opposite side of the road, a two-storey public house to the west on the opposite side of the R479 and a public house to the north on the opposite side of the river.

2.0 Proposed Development

- 2.1. Permission is sought to construct a part two-storey part single-storey structure consisting of public house including kitchen, storage area, apartment, car parking, wastewater treatment system and new vehicular entrance. The proposed structure has a gross floor area of 464.5sqm and ridge height of 7.6m. The structure features pitched roof with external finished mainly of painted plaster and natural stone with a natural slate finish on the roof. It proposed to provide 25 car parking spaces.
- 2.2 The proposal was revised in response to further information with a revised design the proposed structure, which has similar external finishes and a floor area of 450sqm and a ridge height of 8.2m.

3.0 Planning Authority Decision

3.1. Decision

Permission granted subject to 14 conditions. Of note are the following conditions...

Condition no. 2: Revised plans detailing road widening measures and footpath design along both public roads, details of boundary treatment, omission of pedestrian crossing.

3.2. Planning Authority Reports

3.2.1. Planning Reports

Planning report (11/07/19): The design of the proposal was considered inappropriate and would have an adverse impact on the visual amenities of the area. The provision of a wastewater treatment system on lands zoned Agriculture was considered to be contravene a zoning objective under the County Development Plan. Refusal was recommended.

Planning report (15/08/19): The proposal was considered to be acceptable in the context of visual amenity, adjoining amenities, traffic safety, public health and flood risk. A grant of permission was recommended based on the conditions outlined above.

3.2.2. Other Technical Reports

Irish Water (17/06/19): No objection.

Environment Section (05/07/19): No objection subject to conditions.

Road Design Office (10/07/19): Further information required including submission of an autotrack analysis, detail of pedestrian facilities in the car park, details of adequate footpath width, provision of bicycle parking, revised boundary treatment, details of surface water drainage along public road, details of disabled parking specifications, provision of Traffic Management Plan, revised details for road car parking surface, details for public lighting and revised proposals for pedestrian crossing.

Road Design Office (08/08/19): A swept path analysis is required for the new vehicular entrance junction, safety pedestrian routes are yet to be demonstrated, confirmation of the surface of the car park is required, no bicycle parking details provided and a revised boundary design is required to combat illegal parking.

3.3. Prescribed Bodies

DOCHG, Development Applications Unit (28/06/19): Archaeological conditions.

3.4. Third Party Observations

3.4.1 Submission were received from...

Tony McGann.

Sheila McCormack.

Pat O'Donoghue & Mary O'Donoghue.

The issues raised can be summarised as follows...

- Impact on existing business, inadequate car parking/traffic issues, increased flood risk, premature pending provision of adequate infrastructure, adverse visual impact, inadequate wastewater treatment facilities, and contrary zoning objectives.

4.0 Planning History

18/766: Permission refused to construct a public house and associated site works. Refused based on two reasons relating to adverse impact on visual amenity and contravention of a zoning objective.

18/66: Permission refused construct a public house and associated site works. Refused based on one reason relating to public health due to provision of a wastewater treatment system in close proximity to the river.

5.0 Policy Context

5.1. Development Plan

The relevant Development Plan is the Clare County Council Development Plan 2017-2023.

The appeal site is located within the village of Doolin. The majority of the appeal site is zoned for 'Mixed Use' with the northern part of the site zoned 'Open Space) and the area of the site on the opposite side of the public road zoned 'Agriculture'.

Mixed Use

The use of land for 'mixed use' developments shall include the use of land for a range of uses, making provision, where appropriate for primary and secondary uses e.g. commercial/retail developments as the primary use with residential development as a secondary use. Secondary uses will be considered by the local authority having regard to the particular character of the given area. On lands that have been zoned 'mixed use' in or near town or village centres, a diverse range of day and evening uses is encouraged and an over concentration of any one use will not normally be permitted.

Open Space

It is intended that lands zoned 'open space' will be retained as undeveloped open space, mainly for passive open space related activities. The open space/park areas could contain active play facilities such as children's play areas but these would only be a small component of the overall areas involved.

Agriculture

This zone is for the use of land for agricultural purposes and farming related activities. Individual dwellings for permanent occupancy of established landowners and their immediate family members will be open for consideration subject to the objectives set out in Chapter 3 of this plan and normal site suitability considerations.

The site is located along the R479 which is a designated 'Scenic Route'

MU6 Roadford Bridge.

This site is in an excellent location adjoining the existing cluster of development in the Roadford service centre of the village. The site has the capacity to accommodate mixed use/tourism based development that will contribute to the range of services and amenities in the village.

The design and layout of future development on this site must complement the historic character of this part of the village and the location of the site in proximity to a number of protected structures. The traditional layout, height and form of the buildings and structures in this part of the village must also be reflected in future designs.

5.2. Natural Heritage Designations

Cliffs of Moher SPA 2.47km from the site.

Black Head-Poulsallagh Complex SAC 1.39km from the site.

5.3 EIA Screening:

5.3.1 Having regard to the nature and scale the development which consists of a public house and apartment, 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.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1 A third party appeal has been lodged by Michael J. Duffy Consulting Chartered Civil Engineer on behalf of Sheila McCormack, Pat & Mary Donoghue and Tony McGann. The grounds of appeal are as follows...

- The provision of the wastewater treatment system serving the development on lands zoned 'agriculture' is a material contravention of the County Development Plan.
- Policy for the MU6 Roadford Bridge emphasises the need for a design and layout complementing the historic character of this part of the village and its proximity to existing protected structures. It is considered that the proposed design lacks architectural input and would materially contravene this policy. The proposal also fails to provide for on-site water treatment with such provided on the opposite side of the road and such is also a material contravention of Development Plan policy.
- There is too high number of conditions requiring agreement prior to the commencement of development including condition no. 2, 10(b)(c)(d)(e) and (f) indicating the inadequacy of the proposal and the information provided.
- The site suitability assessment is inadequate with no details regarding the location of the tests. It is noted that there is inadequate information regarding the suitability of the proposed wastewater treatment system and its ability to adequately service the proposed development. The appellants also question the information provided in regards to loadings and the quality of wastewater to be discharged.
- It is noted the Planning report recommended refusal and that such was overruled with no clear indication or logic presented for such an action at the time of this recommendation.
- The actions taken in term of further information, unsolicited further information, time extensions and decisions differing from recommendations are contrary Ministerial Guidelines. The appellants question way in which the

application was processed in terms of time extensions and consultations that took place.

6.2. Applicant Response

6.2.1 Response by Brendan McGrath & Associates on behalf of the applicant MJ Queally.

- It is noted that the application has been dealt with in accordance with the Planning Acts and Regulations.
- It is noted that the approved proposal deals with all issues relating to design, traffic impact and wastewater treatment.
- It is noted that the proposal is consistent with the MU6 Objective.
- The proposal is not a material contravention of zoning policy with it noted that the wastewater treatment system is a temporary arrangement until Doolin has a public system. It is noted that this was not a reason for refusal in the first planning assessment of this case where refusal was recommended. It is noted that the provision of the wastewater treatment system on opposite side of the road is the only feasible way of developing the site in accordance with the MU6 zoning objective due to the flood issues on the northern portion of the site and the undesirability to discharge to the river.
- It is noted that the decision making of the Council is not deficient.
- The proposal would be beneficial to the area improving the visual character of the area and infrastructure in the form of footpath and parking facilities.

6.3. Planning Authority Response

6.3.1 Response by Clare County Council.

- The Planning Authority requests that the decision to grant permission is upheld.

7.0 Assessment

7.1. Having inspected the site and examined the associated documents, the following are the relevant issues in this appeal.

Principle of the proposed development/zoning.

Design, scale, visual amenity.

Traffic

Wastewater Treatment

Other issues

Appropriate Assessment

7.2 Principle of the proposed development/zoning:

7.2.1 The appeal site is within the settlement of Doolin, which is defined as being a Large Town under the Development Plan Settlement Strategy. The southern part of the site is identified as being zoned Mixed Use with the northern part zoned Open Space. The lands to the south on the opposite side of the road on which the wastewater treatment system serving the site is located is zoned for Agricultural use. The proposed public house and car parking area is located within the Mixed Use zoning and this is consistent with the zoning objective and would be a use indicated as 'will normally be acceptable in principle' under the zoning matrix (Appendix 2) under the County Development Plan. The area of the site zoned for open space is being retained as such. There is a proposal to provide a wastewater treatment system on a portion of the lands zoned 'Agriculture' on the opposite side of the road. The appellants note that this would be a material contravention of the zoning objective.

7.2.2 The proposed wastewater treatment system is to service a commercial development and is therefore commercial in nature. Having inspected the zoning matrix under Appendix 2 of the County Development Plan there is no separate category for wastewater treatment system. Given the fact it services the proposed public house and restaurant it is therefore commercial in nature. Under the zoning matrix the closest category to the proposed development is 'café/restaurant' and such is noted

as 'will not normally be acceptable' within the Agriculture zoning objective. It is notable that the site appeal site is restrictive in terms of facilitating the wastewater treatment system within the area zoned MU6 with the area to the north of the site unsuitable for siting the wastewater treatment system due to being zoned 'Open Space' and the fact that this area is also within Flood Zone A and B. Notwithstanding such I would consider that the siting of the proposed wastewater treatment system serving the public house and restaurant to be a material contravention of the zoning objective as set out under the Clare County development plan 2017-2023.

7.3 Design, scale, visual amenity:

7.3.1 One of the main issues raised in the appeal concerns the overall quality of design and visual impact of the proposal in the context of its location on a scenic route (R479) and adjoining protected structures including the bridge across the river. Under Objective MU6 relating to the site it is noted that that "the design and layout of future development on this site must complement the historic character of this part of the village and the location of the site in proximity to a number of protected structures. The traditional layout, height and form of the buildings and structures in this part of the village must also be reflected in future designs".

7.3.2 There were revisions to the design of the proposal in response to further information and the approved structure is marginally smaller in floor area. The approved design is more vernacular in character feature a more traditional pitched roof. I would consider that the approved design is the better of the two with better proportions and provides for a stringer character in terms of streetscape, where it adjoins the R479. I would consider that the scale of the proposed development is in keeping with the character of existing structures in the vicinity, which are two-storeys (pub on eth opposite side of the R479). I would be of view that although the proposal is not of exceptional or high quality architectural character, it is nonetheless acceptable in terms of its overall design and scale and would not be detrimental to the visual amenities of the area. I would consider the approved structure is of a design and scale that would not be out of character and scale at this location. I would consider subject to good quality external wall, roof and window finishes in conjunction with

good quality boundary treatment and landscaping (hard and soft) on site, that the proposal would be satisfactory in the context of the visual amenities of the area as well being acceptable in context of the MU6 zoning objective. I would consider that overall design and scale would be acceptable in the context of the character and setting of existing protected structure in the vicinity. I would recommend a number conditions requiring agreement of external finishes, landscaping, boundary treatment and signage prior to the commencement of development.

7.4 Traffic:

7.4.1 The proposal entails the provision of a new vehicular entrance off the L-50702 and the provision of a parking area facilitating parking for 25 cars and 2 coaches. The proposal provides for a 2m wide footpath along the L-50702 and the R479. The vehicular access point is located off the L-50702. The vertical and horizontal alignment of the public road facilitates adequate sightlines in accordance with the Design Manual for Urban Roads and Streets. The proposal also provides for a 2m wide footpath along both the L-50702 and the R479. In regards to car parking the requirements are set out under A1.9.3 of the County Development Plan. The requirements for a two bed apartment is 1 space. For restaurants and licensed premises the requirement is 10 spaces per 100sqm (net floor space) in town centres and 12.5 spaces per 100sqm (net) in other areas. The proposal has a two-bed apartment and net floorspace of approximately 165sqm in the public house/restaurant. The provision of 25 spaces would be well in excess of the minimum required regardless of the site being considered to be in a town centre or other areas.

7.4.2 I would consider the proposal would be acceptable in the context of traffic safety and convenience. The proposal provides for improved pedestrian facilities with a footpath along the road frontage of the site along the L-50702 and the R479. The proposed design and layout of the proposed vehicular entrance is satisfactory in the context traffic safety and the provision of car parking meets the minimums standards required under the County Development Plan.

7.5 Wastewater Treatment:

7.5.1 Doolin does not appear to have a municipal waste water treatment facilities that can service the proposed development. Under the Volume 3 (3d West Municipal District) of the County Development Plan in the section relating to Doolin it is noted under the General Objectives that it is an objective “to encourage the investigation by Irish Water of the feasibility of using capacity at the wastewater treatment plant in Lisdoonvarna to serve Doolin”. Due to the lack of public facilities it is proposed to install a wastewater treatment system on lands located on opposite side of the public road to the south. The main body of the site is restrictive in terms of locating the wastewater treatment on site and within the extent of the site zoned MU. The northern part of the site is zoned open space and impacted by flood zones A and B. There is no indication of a time scale or any concrete plans regarding provision of municipal wastewater facilities at this location.

7.5.2 A site characterisation form was submitted including site suitability test results. The trial hole test indicate that water was present with the trial hole (2.8m deep) and there is a layer of soil 2.6m deep. The test for deep subsoil and/or Water Table indicate percolation value that would indicate the site is suitable for a wastewater treatment system. It is proposed to install a septic tank and reed bed system. The system is to cater for a loading rate of 91 persons including customers, staff and residents. There is a lack of information on the drawings submitted regarding the proximity or location of wastewater treatment systems on adjoining sites. Notwithstanding such and having regard to the nature and scale of the proposal and the loading required, I would consider that the proposal would be premature pending the provision of adequate municipal wastewater treatment facilities within Doolin, would contribute to a proliferation of such wastewater treatment systems in the area and set a precedent for such an arrangement for the future development within the settlement. In this regard I would consider that the proposal would be prejudicial to public health and contrary to the proper planning and development of the area.

7.6 Other Issues:

7.6.1 One of the main issues raised in the appeal concerns the manner in which the application was assessed with it noted that there was original recommendation for refusal that was overturned, use of unsolicited further information, and a time extension with permission granted despite the initial recommendation of refusal. The applicant claims that they have the proposal has been assessed in accordance with the Planning Acts and Regulations and the mechanisms used are allow for under such. From my assessment of the proposal it appears that the Planning Authority has used mechanisms available under the Planning Acts and Regulations to assess and reach a determination of the application. I would note that the appellants have not been restricted in their rights to challenge the proposal hence the current appeal case.

7.6.2 The appellants raised concern regarding the level of conditions requiring agreement prior to the commencement of development. I would note that the Development Management Guidelines recommend the avoidance of a high level of such conditions. In this case I am recommending refusal of permission so this is not an issue of concern.

7.6.3 In regards to flood impact a Flood Risk Assessment was submitted and the parts of the appeal site with Flood Zone A and B are to remain undeveloped (zoned open space). The proposed structure and hardstanding area are located on Flood C Lands and I am satisfied that the proposal would be acceptable in the context of flood risk.

7.7 Appropriate Assessment:

7.7.1 Having regard to the nature and scale of the proposed development and its proximity to the nearest European site, 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.

8.0 Recommendation

8.1. I recommend refusal based on the following reasons...

9.0 Reasons and Considerations

1. Doolin is deficient in terms of municipal wastewater facilities with it a General Objectives under the County Development Plan relating to the town “to encourage the investigation by Irish Water of the feasibility of using capacity at the wastewater treatment plant in Lisdoonvarna to serve Doolin”. The proposed development entails the installation of a private wastewater treatment system, having regard the nature and scale of the proposal and the loading required, I would consider that the proposal would be premature pending the provision of adequate municipal wastewater treatment facilities within Doolin, would contribute to a proliferation of such wastewater treatment systems in the area and set a precedent for such an arrangement for the future development within the settlement. The proposal development would, therefore, be prejudicial to public health and contrary to the proper planning and development of the area.

2. The proposal entails the provision of a wastewater treatment system serving a commercial development (public house/restaurant) on lands zoned ‘Agriculture’ under the County Development Plan. The proposed development is not a use indicated as being acceptable within this zoning objective and in this regard the proposal would constitute a material contravention of zoning policy set down under the Clare County Development Plan 2017-2023. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colin McBride
Planning Inspector

18th December 2019