



An
Bord
Pleanála

Inspector's Report

ABP-308101-20

Development	Construction of a house and garage.
Location	Doonbeg , Co Clare
Planning Authority	Clare County Council
Planning Authority Reg. Ref.	20400
Applicant(s)	James Griffin
Type of Application	Permission
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	James Griffin
Observer(s)	None
Date of Site Inspection	14 th December 2020
Inspector	Mary Crowley

Contents

1.0 Site Location and Description	4
2.0 Proposed Development	4
3.0 Planning Authority Decision	4
3.1. Decision	4
3.2. Planning Authority Reports	5
3.3. Prescribed Bodies	5
3.4. Third Party Observations	5
4.0 Planning History.....	5
5.0 Policy Context.....	6
5.1. National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)	6
5.2. Sustainable Rural Housing Development Guidelines 2005.....	6
5.3. Development Plan.....	7
5.4. Natural Heritage Designations	7
5.5. EIA Screening	8
6.0 The Appeal	8
6.1. Grounds of Appeal	8
6.2. Planning Authority Response	10
6.3. Observations.....	10
6.4. Further Responses.....	10
7.0 Assessment.....	10
7.2. Principle	11
7.3. Visual Impact.....	12
7.4. Water Supply.....	13

7.5. Appropriate Assessment 14

7.6. Other Issues..... 14

8.0 Recommendation..... 15

9.0 Reasons and Considerations..... 15

1.0 Site Location and Description

1.1. The appeal site with a stated area of 0.516ha is located 250m northeast of Doonbeg village, in a rural location, adjoining a private road. The site forms part of a larger agricultural field. The site is bounded by agricultural land and affords interrupted views of the coastline to the north and west. The area is characterised by agricultural land and associated structures together with low density ribbon development. A set of photographs of the site and its environs taken during the course of my site inspection is attached. I also refer the Board to the photos available to view on the appeal file. These serve to describe the site and location in further detail.

2.0 Proposed Development

2.1. Permission is sought to construct a 3 bed dwelling house (122.6sqm) and garage, accessed by an existing private road, install an effluent treatment system and percolation area and all associated site works. The application was accompanied by the following:

- Letter from Kevin Doyle owner of the lands at both sides of the private road serving the lands owned by the applicant giving permission to the applicant to maintain boundaries at the junction in order to maintain visibility.
- Site Characterisation Report

3.0 Planning Authority Decision

3.1. Decision

3.1.1. Clare County Council issued a notification of decision to refuse permission for a single reason relating to **visual impact** as follows:

- 1) *Having regard to the elevated and exposed nature of the proposal site in this coastal areas, the scale and siting of the proposed dwelling house, and the views available towards the site from the surrounding network of public roads, the Planning Authority considers that the proposed development would constitute a visually obtrusive and prominent feature on the landscape, which would seriously injure the visual amenities of the area and the character of this rural landscape,*

and which would detract from the views and prospects obtained from the surrounding road network. Consequently, the Planning Authority considers that the proposed dwelling, would be contrary to the objective of CDP 13.2 “Settled Landscapes” of the Clare County Development Plan 2017 – 2023, as varied, and therefore would be contrary to the proper planning and sustainable development of the area.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

- The **Case Officer** recommended that permission be refused on the basis of visual impact. The notification of decision to refuse permission issued by Clare County Council reflects this recommendation.

3.2.2. Other Technical Reports

- **Environment Section** – The wastewater treatment system proposed should be installed as set out subject to conditions as outlined in the report.

3.3. **Prescribed Bodies**

3.3.1. None

3.4. **Third Party Observations**

3.4.1. None

4.0 **Planning History**

- 4.1.1. There is no evidence of any previous planning appeal at this location and no planning history has been made available with the appeal file. It is noted from the submission of Clare County Council, the Case Planners report and the planning application form that there were 3 no previous planning applications on this site by James Griffin going back to 2004 seeking permission to construct a dwelling house. All were withdrawn. Reg Ref P18/674, P05/2397 and P04/1215 refer. No further details have been provided with the appeal file.

5.0 Policy Context

5.1. National Planning Framework – Project Ireland 2040 (DoHP&LG 2018)

5.1.1. The *National Planning Framework – Project Ireland 2040* (NPF) is a high-level strategic plan for shaping the future growth and development of Ireland to 2040. A key objective of the Framework is to ensure balanced regional growth, the promotion of compact development and the prevention of urban sprawl. It is a target of the NPF that 40% of all new housing is to be delivered within the existing built-up areas of cities, towns and villages on infill and/or brownfield sites with the remaining houses to be delivered at the edge of settlements and in rural areas.

5.1.2. **National Policy Objective 19** refers to the necessity to demonstrate a functional economic or social requirement for housing need in areas under urban influence, i.e., the commuter catchment of cities and large towns and centres of employment. This will also be subject to siting and design considerations. In rural areas elsewhere, it refers to the need to facilitate the provision of single housing in the countryside based on siting and design criteria for rural housing in statutory guidelines and plans, having regard to the viability of smaller towns and rural settlements.

5.2. Sustainable Rural Housing Development Guidelines 2005

5.2.1. The *Rural Housing Guidelines* seek to provide for the housing needs of people who are part of the rural community in all rural areas and makes a distinction between 'Urban Generated' and 'Rural Generated' housing need. Chapter 4 of the guidelines relates to rural housing and planning applications and states that in areas under significant urban influence, applicants should outline how their proposals are consistent with the rural settlement policy in the development plan. Examples are given of the types of circumstances for which 'Rural Generated Housing Need' might apply, including 'persons who are an intrinsic part of the rural community' and 'persons working full time or part time in rural areas'.

5.2.2. The Guidelines further require that new houses in rural areas be sited and designed in a manner so as to integrate well with their physical surroundings and generally be compatible with water protection, roads, traffic and public safety as well as protecting the conservation of sensitive areas.

5.3. Development Plan

- 5.3.1. The operative plan for this area is the **Clare County Development Plan 2017 – 2023**. Objectives and policies relevant to this case are as follows:
- 5.3.2. The site is located is within an “**Area of Special Control**” (Strong Urban Pressure; Map 3B: Areas of Special Control refers) for which it is the policy of the planning authority under **Objective 3.11** to permit single house development for permanent occupation by persons from the locality and/or working full or part time in rural areas, or who have exceptional health or family circumstances.
- 5.3.3. The site location is within an a “**Settled Landscape**” (Map 13A refers) and according to **Objective 13.2** it is the policy of the planning authority to permit development in “settled landscapes”
- that sustain and enhance quality of life and residential amenity and which promotes economic activity subject to conformity with the CDP provisions,
 - that has appropriate site selection with regard to landscape, minimisation of visual impacts and avoidance of intrusion on scenic routes, ridges or shore lines
 - that demonstrates avoidance of selection of prominent site locations, to avail of existing topography and vegetation in reducing viability from walking trails, water bodies and public amenities and roads and,
 - that has design that reduces visual impact by careful choice of form finishes and colours and involves site works that reduces visual impact.

5.4. Natural Heritage Designations

- 5.4.1. The site is not located within a designated Natura 2000 site. It is noted that the Mid Clare Coast SPA (Site Code 004182) and Carrowmore Dunes SAC (Site Code 002250) are located 0.4km to the north west of the appeal site. The Tullaher Lough & Bog SAC (Site Code 002343) is located c2.6km to the south east of the appeal site. The Kilkee Reefs SAC (Site Code 002264) is located c7km to the west of the appeal site.

5.5. EIA Screening

- 5.5.1. Having regard to the nature and scale of the proposed development, there is no real likelihood of significant effects on the environment arising from the proposed development. The need for environment 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. The first party appeal has been prepared and submitted by Michael Eustace & Co Ltd Civil Engineering Consultants on behalf of the applicant and may be summarised as follows:

- The applicant is a farmer who lives with his elderly parents on his farm at Rhynagonnaught in a house that is “*hardly fit for human occupation*”. The applicant has been trying to get permission to construct a dwelling house on his lands since 2004. He submitted 3 no applications and after discussions with the Planning Authority was advised to withdraw all three. The Planners suggested alternative sites within the farm, but all these areas flooded in subsequent storms. The applicant needs to be near his calves during the calving season.
- The reason for refusal is noted. It is accepted that the site is elevated, however it is bounded on three sides with a nature hedgerow approximately 2.5metres high and the planning application proposed to construct a similar hedgerow along the north boundary of the site. The site while described a rural is located within 400 metres of Doonbeg village.
- The planning authority refers to the views available towards the site from the network of surrounding roads as follows. Map attached.
 - 1) Main Road running through Doonbeg Village A to C
 - 2) Minor Road leading to Rhynagonnaught B to F (cul de sac)
 - 3) Killard Road from E to D which is across the bay
- In order to determine the views from the roads listed above the proposed dwelling house was set up on the site with a tractor and trailer. The appeal includes two

photographs from each location, one of the ridge profile and the second with a roof superimposed at the level of the profile.

- 1) **The main road at points A and C** – It is important to note that this road would be subjected to more than 90% of the total traffic in this area. The existing house at the left of the proposed site is much more prominent as is the mast to the right. If the existing hedgerow along the southern boundary of the site was allowed to grow another 300mm the house would not be visible from this road.
- 2) **The Rhygonnaught Road B to F** – This road is a cul de sac and is lightly trafficked except for residents living on the road. There is a public car-park at point F which is used by people accessing the beach. The site is visible from Point B and Point F on this road. The superimposed house is hardly visible from Point B and is dwarfed by the houses on the left and right of the photograph. The photograph taken from the public car park at Point F shows the roof of the proposed house from all locations.
- 3) **Killard Road between E and D** – This road has ten times more traffic than the Rhygonnaught Road. The houses along the shore in Rhygonnaught can be seen from this location. The photograph taken from Point E shows the top section of the superimposed roof. This can hardly be described as a blot on the landscape when viewed in relation to the existing houses in this area.

6.1.2. The appeal was accompanied by a personal statement from the applicant that set out the following as summarised:

- The applicant was born in Rhygonnaught and has lived there all his life and meets all 3 criteria under Objective CDP 3.11 and not just Category 1. The applicant is responsible for the running of the family farm (Category B) and live with his elderly mother who is dependent on the applicant (Category C).
- The site is not in a Special Area of Conservation (SAC), Special Protected Area (SPA) or Natural Heritage Area (NHA). It is in a Coastal Area which is a long-established residential area with a broad mix of traditional farmhouses, farm buildings, cottages, dormer bungalows and some substantial two storey houses.
- The form and shape of the proposed building emulates the simple traditional house design and is a single-story building of modest size being only 122.6sqm. The

house design does not conflict with the character of houses in the area. The location is the only practical option available to the applicant.

- The proposed house is 460m from a 21m multiuser monopole carrying telecommunication equipment for which planning permission was granted following an appeal (ABP-306478-20 refers). In reaching its decision the Board stated that *“subject to set out conditions the proposed development would not be visually intrusive or seriously injure the amenities of the area or the residential amenities of properties in the vicinity and would not be prejudicial to public health.”* The mast is 4 times the height of the proposed dwelling and 460 meters away.
- Neither the Case Planners report nor the Notification of Decision to Refuse Permission contained the required documentary evidence or referenced relevant authoritative documentary material to substantiate or validate the reason for refusal.

6.2. Planning Authority Response

- 6.2.1. Clare County Council notes the appellants grounds for appeal and requests An Bord Pleanála to uphold the Councils decision.

6.3. Observations

- 6.3.1. None

6.4. Further Responses

- 6.4.1. None

7.0 Assessment

- 7.1. Having regard to the information presented by the parties to the appeal and in the course of the planning application and my inspection of the appeal site, I consider the key planning issues relating to the assessment of the appeal can be considered under the following general headings:

- Principle
- Visual Impact

- Water Supply
- Appropriate Assessment
- Other Issues

7.2. Principle

- 7.2.1. The site is located within an “Area of Special Control” (Strong Urban Pressure) for which it is the policy of the Planning Authority under Objective 3.11 (New Single Houses in the Countryside within the ‘Areas of Special Control’) to permit single house development for permanent occupation by persons from the locality and/or working full or part time in rural areas, or who have exceptional health or family circumstances.
- 7.2.2. Having regard to the information available the applicant would appear to merit consideration under Category A – Local Rural Person. There are 3 no criteria to be used in assessing applicants under Category A:
- 1) The applicant must come within the definition of a “Local Rural Person”
 - 2) The proposed site must be situated within their “Local Rural Area” and
 - 3) The applicant must have a “Local Rural Housing Need”
- 7.2.3. **Local Rural Person** – I refer to the application form (page 10) where it is stated that *the attached report contains a letter from the local Doonbeg national School confirming the applicants attendance.* The application form further states that there is a letter from the Department of Agriculture and Food confirming the applicants address and his occupation as a farmer. These documents have not been made available with the appeal file. However, I note from the Case Planners report that a letter from the local primary school giving the applicants address while attending that school for 8 years as Rhynagonnaught, was submitted together with a letter from the Department of Agriculture showing that the applicants current is Rhynagonnaught. The Case Planner continues that having checked the relevant mapping Rhynagonnaught is not a townland but is a locality within Doonbeg townland. Doonbeg is the address of the appeal site. A map was submitted with the application indicating the location of the family home, which is 1km northeast of the site. Having regard to the Case Planners report and assessment together with the information available on the appeal file I am satisfied that the applicant comes within the definition of a “Local Rural Person”.

- 7.2.4. **Local Rural Area** - 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”). Again I refer to the Case Planners report together with the map submitted with the application indicating the location of the family home 1km northeast of the site. Accordingly, I am satisfied that the site is situated within the applicants “Local Rural Area”.
- 7.2.5. **Local Rural Housing Need** - I refer to the application form where it states that the proposed dwelling will be the applicants permanent place of residence, that they inherited 12.9ha from their parents, that they recently sold a house at Gowerhass, Kilrush and that they are a full-time farmer currently living with their parents. The form also states (page 10) that the applicant has no other suitable site on the farm and that the lands adjacent to his parents’ house flooded in 2010 and that the appeal site is the only site with adequate percolation as most of the land has a peat subsoil. In this regard I agree with the Case Planner that the applicant has demonstrated a “Local Rural Housing Need”.
- 7.2.6. The Planning Authority’s satisfaction that the applicant’s circumstances satisfy eligibility criteria is considered reasonable and I support the conclusions that compliance with the Category A – Local Rural Person criteria has been demonstrated.

7.3. **Visual Impact**

- 7.3.1. Clare County Council issued notification of decision to refuse planning permission for the construction of a single storey dwelling house (122.6sqm) and a single storey garage of 45sqm with a maximum finished floor level of 100.2m for reasons of visual impact.
- 7.3.2. The refusal reason stated that having regard to the elevated and exposed nature of the proposal site in this coastal area, the scale and siting of the proposed dwelling house, and the views available towards the site from the surrounding network of public roads, the proposed development would constitute a visually obtrusive and prominent feature on the landscape and would be contrary to the objective of CDP 13.2 “Settled Landscapes” of the Clare County Development Plan 2017 – 2023 as varied.
- 7.3.3. The applicant includes a description of the other lands that form part of the family landholding and the rationale as to why the applicant site was chosen as the most

suitable. The rationale used is acceptable, noting that some of the lands are closer to the coast, are located in coastal flooding zones, or are bogland.

- 7.3.4. This is an elevated site. As observed on day of site inspection the site levels drop gradually towards the rear of the site to the northern (coastal) side and affords views of Doonbeg Bay to the northwest and of the Doonbeg Resort to the northeast. The site itself is not part of the Heritage Landscape but the nearest part of the (coastal) Heritage Landscape is c170m west of the site.
- 7.3.5. I refer to the applicants photomontages taken from the local roads submitted with the appeal site where it is evident that sensitive scale of the dwelling together with the existing hedgerow offers substantial screening for the proposed scheme. I agree with the applicant that the proposed development would have a minimal negative effect on the landscape as every effort has been made to minimise its impact by reason of scale and design thus reducing the overall visual impact.
- 7.3.6. The proposed design is a low profile, single storey pitched roof dwelling finished in plaster with blue / black slates that will be substantially screened by indigenous hedgerow. Subject to an appropriate condition to ensure that landscaping within the site on the site frontage and at the entrance is appropriate for this sensitive rural location, there is no objection to the proposed development in this regard. I am satisfied that to permit this scheme would not be contrary to Objective 13.2 of the Development Plan.
- 7.3.7. It is recommended that the reason for refusal be set aside.

7.4. Water Supply

- 7.4.1. According to the application form there is an existing connection to the Rinnagonnacht Group Water Scheme at the site. I refer to the Case Planners report where it states that the supply of water to the site was not resolved in the previous applications. It is documented that there is a Group Water Scheme (GWS) network on the public road but the Councils mapping does not show it extending along the private roadway serving the site. Further it is a requirement that written consent is obtained from the GWS to connect to its supply together with a map of the proposed route of connection to be verified by the GWS. Neither have been submitted with this application.

7.4.2. Taken together with the planning history associated with water supply at this site, as documented by the Case Planner I am concerned that the matter of water supply to the site has not been resolved. Refusal is recommended.

7.5. **Appropriate Assessment**

7.5.1. Having regard to the nature and scale of the proposed development and its distance 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.

7.6. **Other Issues**

7.6.1. **Development Contribution** - I refer to the Clare County Council Development Contribution Scheme 2017-2023. Section D - Reductions & Exemptions is not applicable in this case. It is recommended that should the Board be minded to grant permission that a suitably worded condition be attached requiring the payment of a Section 48 Development Contribution in accordance with the Planning and Development Act 2000.

7.6.2. **Wastewater Treatment** – It is proposed to construct a new WWTP on site. Details of the proposed unit have been submitted based on the tests undertaken on the site. I note the report of Clare County Council Environment Section where it is recommended that the wastewater treatment system be installed as set out in accordance with the plans and particulars submitted with the application and subject to conditions as outlined in the report. The proposed arrangements are considered acceptable subject to compliance with the requirements of the planning authority and the EPA guidelines.

7.6.3. **Traffic Impact** – Access to the site is via a private laneway that also provides access to 2 no residential properties, a farmyard and agricultural lands. The appeal site is c250m from the junction of the laneway with the public road. The site will be accessed via an existing agricultural gate that will be upgraded to serve the scheme. The application was accompanied by a letter from the owners of the lands on both sides of the private road at the junction with the public road giving consent to the applicant for setback and maintenance.

- 7.6.4. Having regard to the foregoing together with my site inspection I am satisfied that the site entrance is adequate to serve the proposed development and that subject to the implementation of the measures outlined in the application that the vehicular movements generated by the proposed development would not have a significant material impact on the current capacity of the road network in the vicinity of the site or conflict with traffic or pedestrian movements in the immediate area.

8.0 Recommendation

- 8.1. It is recommended that permission be **REFUSED** subject to the reasons and considerations set out below

9.0 Reasons and Considerations

1. The proposed development would be premature pending the availability of a suitable water supply. Consequently, the proposed development would be prejudicial to public health and therefore, contrary to the proper planning and sustainable development of the area.

Mary Crowley

Senior Planning Inspector

19th January 2021