



An  
Bord  
Pleanála

## Inspector's Report

### ABP-308359-20

<b>Development</b>	Construction of a house, within the ruins of Doon Church.
<b>Location</b>	Doon West, Ballybunion, Co Kerry
<b>Planning Authority</b>	Kerry County Council
<b>Planning Authority Reg. Ref.</b>	20643
<b>Applicant(s)</b>	Neil Collins.
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Neil Collins.
<b>Observer(s)</b>	Department of Tourism Culture Arts Gaeltacht Sport and Media.
<b>Date of Site Inspection</b>	20 <sup>th</sup> November 2020.
<b>Inspector</b>	Bríd Maxwell



## 1.0 Site Location and Description

- 1.1 This appeal relates to a site located on the western side of the R551 circa 1.5km north of the centre of Ballybunion, in County Kerry. The site is at a junction with a minor county road which continues northwards parallel to the coast whilst the R551 turns inland leading to Ballylongford. From Ballybunion the R551 rises up quite markedly towards the appeal site and there is significant ribbon development (mainly bungalows) both before and after the appeal site. Immediately to the south of the site there is a modern two storey house and a bungalow whilst to the north there is a single storey residence located on the common boundary which forms part of a long-established complex of farm buildings/sheds. On the opposite side of the county road there is a bungalow. The site is approximately 250 metres from the coastline being separated by fields in pasture and is within a 50 kilometre per hour speed zone.
- 1.2 The appeal site is stated to be 0.16 hectares and is enclosed within stone walling c.1.6- 2 metres in height. The site contains a former Roman Catholic Barn Church *Doon Church* with a T-Plan finished in stone with slate roofing and a bellcote. The former church is a Protected Structure (ref. 4-24) in the Kerry County Development Plan 2003-2009 and is on the NIAH Ref 21300407 of Regional importance. All that now remains on site are the upstanding walls of the nave, transepts and shallow square apse of the church and the walls of a small lean-to sacristy outside the western wall of the church. The rubble from the brick chimney and part of the internal wall of the vestry is evident on site and there is further rubble from internal building elements and roof across the interior of the Church. A heritage plaque on site outlines that the church was built in 1830 and was one of the first state of the art barn style churches. Cruciform in shape it had three galleries one on either side of the altar and the other was at the back of the church, The doorway was arched shaped. The wall pierced with two light windows with permuted arches. The last mass celebrated in the church was on the first of December 1972.
- 1.3 The NIAH Description is as follows:  
Freestanding T-plan double-height barn-type former Roman Catholic church, built 1830, now partly dismantled, with entrance bay remodelled to accommodate use as

barn building. Comprising two-bay double-height nave with lancet arch window openings, single-bay double-height transepts to north and to south elevations and entrance bay to east gable end having bellcote over gable. Pitched intersecting graded slate roof with clay ridge tiles and limestone bellcote. Coursed random rubble walls. Pointed arch openings, all window and door frames removed. Large opening formed in east wall with concrete lintel and reveals. Churchyard to site now in use as farmyard. Rendered rubble walls with curving walls flanking entrance to site.

## **2.0 Proposed Development**

- 2.1. The proposal involves the construction of a two-storey dwelling within the ruins of Doon Church which is a protected structure, subsurface ground works to repair and reinforce damaged sections of the ruin church wall, the addition of an ope through the existing western gable of the ruin, connection to main sewer drain and watermains, car parking, landscaping and all associated site development works.
- 2.2. The application is accompanied by a Planning Statement by Coakley O'Neill Town Planning, an Archaeological and Architectural Heritage Impact Assessment by Rubricon Heritage and an Architectural Heritage Impact Assessment by Arc Consulting.
- 2.3. The proposal provides for a setback of the proposed dwelling from the existing church walls with a buffer area of at least 1m to the north south and east elevations. The western gable is to be incorporated into the house plan to provide rear access at ground level and a balcony above including the provision of a new opening through the western gable to provide first floor access. The proposal is to connect to public foul sewer and water supply schemes.
- 2.4. Proposed new building is clad with black corrugated sheet panels.
- 2.5. Application details indicate that the proposal is intended to be used as a second /holiday home or for visitor accommodation by way of the provision of a holiday let.

### **3.0 Planning Authority Decision**

#### **3.1. Decision**

By order dated 10<sup>th</sup> September 2020 Kerry County Council issued notification of its decision to refuse permission for the following reasons:

It is considered that the proposed development would detract from the special character and interest of Doon Church, a protected structure Ref No 21300407 and would therefore contravene objective H-38 of the Kerry County Development Plan 2015-2021. The proposed development would be contrary to the proper planning and development of the area.

The Planning Authority is not satisfied on the basis of the submissions made in relation to the application, that a rural housing need has been demonstrated by the applicant in accordance with Section 3.3.4 of the Kerry County Development Plan 2015-2021 which states 'In Prime Special Amenity Areas, however the renovation or restoration will be confined to dwellings which are to be occupied by a person as their primary place of residence and who are sons and daughters of traditional landholders, the landholding having been in the applicant's or applicant's family's ownership for a period in excess of 10 years while being the location of the principal family residence.'" 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 Reports**

Planner's report considers the proposed design to be inappropriate, considers that housing need has not been demonstrated and recommends refusal.

##### **3.2.2. Other Technical Reports**

County Archaeologist – No recorded monuments in close proximity and site has been previously disturbed. No mitigation required.

Roads Report No objection subject to conditions.

Conservation Officer's report expresses serious reservations about the proposal. The design by virtue of its massing, bulk and proposed finish incorporating corrugated cladding and black aluminium, along with protruding elements such as the western balcony suspended from ground level and the balcony located to the front of the dwelling with a roof overhang offer a most incongruous design response to the need to incorporate a sensitive architectural treatment of the existing protected structure. Concern arises that the views character and setting of the protected structure would be completely adversely affected by the development. The impact of solid expanse of black corrugated sheeting through the existing building opes is an example of a lost opportunity to link new development with the architectural style and character of the pre-existing protected structure. Issues of consolidation repair and maintenance in the future is not addressed. Recommend that the existing building is the primary point of development of a renovation project rather than a separate new house. Refusal recommended.

### **3.3. Prescribed Bodies**

Irish Water- Connection Agreement required.

### **3.4. Third Party Observations**

North Kerry Environmental Forum asserts that Doon Church and site is a valuable part of the heritage of many generations of his townland parish of Ballybunion originally built by Rev John Buckley and parishioner's funds. It is unfortunate that the parish/bishop did not retain ownership. Since the church was built in 1830 there was public / parish access to attend mass and worship. Proposal for car parking would impact on the character of the building.

## **4.0 Planning History**

**08/1763** Permission granted 10<sup>th</sup> February 2009 to subdivide and convert Doon Church to accommodate three self-contained duplex apartments and an art gallery together with elevation changes, single storey extension and renovation works to existing building, connection to main sewer and watermain provision of car parking, Landscaping plant room and bin storage and all associated works and services.

Permission was granted subject to 28 conditions of which I note Condition 3 Bond €21,000. Condition 4 & 5 Development contributions €31,597.38. (Water & Sewer) €1,996.97 Community Infrastructure. Condition 6 Archaeological Monitoring. Condition 7. Construction monitoring by Conservation Architect. Condition 18 Art Gallery to remain as an integral part of the 3 apartment units and none sold as independent units. Residential units shall not be used for any commercial activity. Ground floor premise shall be used as an Art Gallery with ancillary and incidental storage including ancillary and incidental accommodation.

**0891763** Extension of duration of permission. To 1<sup>st</sup> February 2016. Now expired.

**PL08.218613 06/1564** Following third party appeal Kerry County Council's decision was overturned and permission refused for conversion of church to 5 no self-contained townhouses.

Refusal reason was as follows:

"The proposed development of multiple units would involve significant alterations to the former Doon Church which is a Protected Structure prominently visible from the R551 in close proximity to the sea and Ballybunion, which is a District Centre in the current Kerry County Development Plan. Having regard to the level of information supplied with the application and to the extensive level of alterations envisaged including rooflights, new windows, doorways and balconies, together with internal revisions to the built form, it is considered that the cumulative impact would have a serious negative effect on this important building, notwithstanding its current state of disrepair. It is considered, therefore, that the proposed development would adversely affect the character and integrity of the protected structure and would be contrary to the proper planning and sustainable development of the area."

### **Derelict Notice.**

It is noted from the information provided on the appeal site that the site was for a time on the Derelict Sites Register. In 2009 Kerry County Council issued directions with regard to undertaking remedial works to the roof and walls of the Church. Works to this effect subsequently commenced but the roof suffered a partial unrestorable collapse. In 2010 the Council issued directions stipulating removal of sections of the roof and works to make the building safe. Following works, including the capping of

walls to prevent water ingress, the site was removed from the Derelict Sites Register in September 2010.

## **5.0 Policy Context**

- 5.1 Architectural Heritage Protection Guidelines for Planning Authorities Department of the Environment Heritage and Local Government 2004.

Chapter 5 relates to Places of Public Worship.

At 6.8.8 it is outlined that the best way to prolong the life of a protected structure is to keep it in active use, ideally its original use. Where this is not possible, there is a need for flexibility to be responsive to appropriate alternative uses for a structure.

## **5.2 Development Plan**

The Kerry County Development Plan 2015-2021 refers.

Ballybunion is recognised as district town within the Plan's settlement hierarchy.

The site is outside the settlement boundary within a prime special amenity area.

3.3.2.3 Prime Special Amenity Areas comprise of the outstanding landscapes throughout the County. Rugged mountain ranges, spectacular coastal vistas and unspoilt wilderness areas are some of the features within this designation.

Section 3.3.5 Renovation and Restoration of Existing and Vacant Buildings Situated in Rural Areas.

The Planning Authority shall give positive consideration to the renovation and restoration of existing structures and to the completion of derelict and vacant buildings in the rural countryside for use as permanent primary residences and as holiday home accommodation. Consideration will be related to the specific location and condition of the structure and the scale of any works required to upgrade the structure to modern standards.



In Prime Special Amenity Areas, however, the renovation or restoration will be confined to dwellings which are to be occupied by a person as their primary place of residence and who are sons and daughters of traditional landholders, the landholding having been in the applicant's or applicant's family's ownership for a period in excess of ten years while being the location of the principal family residence.

Architectural Heritage & Conservation objectives include

H-34 Protect the architectural heritage and promote conservation led regeneration and re-use of buildings, where appropriate.

H-38 Ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting:-

- Is appropriate in terms of the proposed materials, scale, density and layout,
- Addresses the issue of reversibility,
- Respects the original design plan and form,
- Demonstrates an understanding of the historical importance of the building and its setting and does not detract from the special character / interest of the protected structure,
- Deal sensitively with historically important features and fittings,
- Takes account of any protected species that may utilise the structure and accordingly mitigate any impacts on the species.

### **5.3 Natural Heritage Designations**

The site is not within a designated area. Designated sites in the vicinity include:

- Lower River Shannon SAC (Site Code 002165) 130m to the west
- River Shannon and River Fergus Estuaries SPA (Site Code 004077) within 5km to the north of the site
- Kerry Head SPA (Site Code 004189) within 6.5km to the southwest.
- Loop Head SPA (Site Code 004119) 17km to the northwest.

## **5.4 EIA Screening**

- 5.4.1 On the issue of Environmental Impact Assessment screening having regard to the limited nature and scale of the development and nature of the receiving environment no likelihood of significant effects on the environment arises from the development. The need for environmental impact assessment can, therefore, be excluded.

## **6 The Appeal**

### **6.1 Grounds of Appeal**

- 6.1.1 The grounds of appeal are submitted by Coakley O Neill, Town Planning Consultants and accompanied by a response by Arc Consultants (WH Hastings Conservation Architect) and are summarised as follows:

- In relation to the first reason for refusal it is contended that the proposal would be in accordance with H-38 and would seek to mitigate against the loss of a built heritage structure through considerate redevelopment providing a modern function for the building which has become increasingly derelict in recent years.
- Zoning as prime Special Amenity Area does not prohibit development. Noting location within the existing built-up area of Ballybunion the designation as prime special amenity area is questioned.
- Note planning history on the site including grant of permission 08/1763 February 2009 for subdivision and conversion to three apartments and art gallery.
- Site previously formed part of the development boundary for Ballybunion.
- Site is not visually sensitive.
- Precedent for similar small scaled development 19/514 Permission for extension and alteration to Mulvihill House Castlegregory. 16/698 Permission for maintenance shed at Ballybunion Golf Club. 15/1106 Renovation and extension of bungalow Sleah Head Drive. 11/1 Permission for single storey dwelling Tiduff Ballyheigue.
- Proposal would seek to improve existing visual amenity.

- Policy T68 seeks to encourage sensitive redevelopment and or return to suitable use of derelict vacant or redundant buildings in appropriate locations to provide for visitor accommodation and tourism development/ while having regard to ecological constraints and architectural heritage requirements.
- Applicant has been the owner of the site for over 10 years and intends to redevelopment the site for occupation for their family.
- Proposed interventions are minimal and would not detract from the visual amenity of the area or surrounding landscape.
- Response by Arc Consultants notes that the proposed building which is set back from the existing walls minimises loss damage or change to the fabric of the protected structure and is reversible.
- Proposal allows the original function of the building to continue to be read and understood.
- Architectural heritage protection guidelines at 7.2.1 state that damage can be caused to the character of a protected historic structure as much by over attention as by neglect.

## **6.2 Planning Authority Response**

The Planning Authority did not respond to the grounds of appeal.

## **6.3 Observations**

I note that the application was referred by the Board to a number of prescribed bodies including The Heritage Council, Department of Culture Heritage and the Gaeltacht, Failte Ireland, An Comhairle Ealaíon, An Taisce. No responses were received.

## **7 Assessment**

7.1 Having inspected the site and reviewed the file documents and having regard to the planning history on the site, I consider that the key planning issues for this appeal are as follows:

- Principle of Development and Matter of Housing Need
- Archaeological and Architectural Heritage Impact
- Appropriate Assessment and other matters

### **7.2 Principle of Development and Matter of Housing Need.**

7.2.1 The Local Authority's second reason for refusal was as follows:

The Planning Authority is not satisfied on the basis of the submissions made in relation to the application, that a rural housing need has been demonstrated by the applicant in accordance with Section 3.3.4 of the Kerry County Development Plan 2015-2021 which states 'In Prime Special Amenity Areas, however the renovation or restoration will be confined to dwellings which are to be occupied by a person as their primary place of residence and who are sons and daughters of traditional landholders, the landholding having been in the applicant's or applicant's family's ownership for a period in excess of 10 years while being the location of the principal family residence.'" The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area."

7.2.2 The reference to Section 3.3.4 and the requirement to demonstrate a local housing need, is in my view not relevant to the appeal case given the status of the building as a protected structure. Given the relevant objectives within the development plan with regard to protected structures and to National Policy as set out in the Architectural Heritage Protection Guidelines 2004 I consider that it would be inappropriate to apply housing need policy to this application. I also note the previous permission granted on the site 08/1763 did not require occupancy. I also concur with the first party that the prime special amenity area designation of the site does not preclude development in principle. Having regard to the policies within the development plan

to promote the conservation of the built heritage I consider that the principle of development is appropriate.

7.2.3 As outlined above the Architectural Heritage Protection Guidelines at 6.8.8 outline that the best way to prolong the life of a protected structure is to keep it in active use, ideally its original use. Where this is not possible, there is a need for flexibility to be responsive to appropriate alternative uses for a structure. As regards the proposed residential use, I consider that in light of the de-consecration of the site, and its history of neglect and deterioration and the planning history on the site its use for residential purposes is appropriate.

### **7.3 Archaeological and Architectural Heritage Impact**

7.3.1 As regards archaeological impact I note that the Archaeological, Architectural and Cultural Heritage Impact Assessment by Rubricon Heritage Services Ltd. which was submitted with the application. The report notes that there are no upstanding gravestones to suggest a graveyard, however, the entire area is overgrown and the possibility that one or several may exist cannot be completely discounted. The report also notes four RMPs within the area and recommends a number of mitigation measures to include a programme of archaeological monitoring of all ground reduction and enabling works. I consider that further investigation into the potential for a graveyard on the site should be addressed as part of any development proposal and in this regard, I consider the submitted detail to be deficient. I consider that a comprehensive survey of the site should be carried out as recommended at 14.6 Burial Grounds of the Architectural Heritage Protection Guidelines for Planning Authorities.

7.3.2 As regards the impact on architectural heritage, I note that as outlined in the Architectural Heritage Protection Guidelines, conservation is the process of caring for buildings and places and of managing changes to them in such a way as to retain their character and special interest. I also refer to *Policy H38 of the Kerry County Development Plan 2015-2021* which is to ensure that any development, modification, alteration, or extension affecting a protected structure and/or its setting:-

- Is appropriate in terms of the proposed materials, scale, density and layout,
- Addresses the issue of reversibility,
- Respects the original design plan and form,
- Demonstrates an understanding of the historical importance of the building and its setting and does not detract from the special character / interest of the protected structure,
- Deal sensitively with historically important features and fittings,
- Takes account of any protected species that may utilise the structure and accordingly mitigate any impacts on the species.”

7.3.3 The decision of the Council was that the proposal would detract from the special character and interest of Doon Church. The report of the Conservation Officer outlines concern that the proposal by virtue of its massing bulk and proposed finish incorporating corrugated cladding and black aluminium along with the balcony elements would represent an incongruous design response which would adversely affect the character and setting of the protected structure.

7.3.4 I note that the Architectural Heritage Impact Assessment by Arc Consulting submitted with the application which asserts that the free-standing nature of the proposed house, and its material and detail will give rise to very little physical impact on the fabric of what remains of Doon Church. It is acknowledged that the new intervention will change the character of the protected structure as it will no longer be an empty shell but “a receptacle for a modern functioning domestic building”. As such it is asserted that the development will sustain the protected structure in use and support the long-term maintenance of the remaining original walls of the church. Within the grounds of appeal, it is argued that a direct intervention in the fabric of the protected structure should not be pursued as “it would result in some damage or loss” and “would change how the protected structure, the shell of the former church, is perceived”.

7.3.5 I do not agree that the proposal represents an appropriate intervention in terms of its impact on the protected structure on the site. Having considered the proposal in its

detail I concur with the view of the Council's Conservation Officer that the proposal would constitute an entirely discordant intrusion which would be at odds with and have a significant adverse impact on the protected structure. I consider that reference to the protected structure as "the shell of a former church" fails to acknowledge the special character of Doon Church which is noted within the NIAH to be of Architectural historical and social interest. I refer to the definition of protected structure as set out at 2.2.2 of the Architectural Heritage Protection Guidelines "where (In relation to a protected structure or proposed protected structure, the meaning of the term 'structure' is expanded to include :

- (a) the interior of the structure
- (b) the land lying within the curtilage of the structure
- (c) any other structure lying within that curtilage and their interiors, and
- (d) all fixtures and features which form part of the interior or exterior of the above structures"

7.3.6 I would agree with the expressed view of the conservation officer that a renovation of the extant structure on the site is appropriate in accordance with best conservation practice. This is not to exclude the possibility for architectural innovation, contemporary design and form. The proposal as set out is in my view insensitive to and at odds with the extant church structure which is diminished in its relegation to function as "the receptacle for modern functioning domestic building". The proposal would be detrimental to the built heritage of the site and would be contrary to the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of the Environment Heritage and Local Government in December 2004, and contrary to objectives H-38 of the Kerry County Development Plan 2015-2021. The proposed development would therefore be contrary to the proper planning and sustainable development of the area.

## **7.4 Appropriate Assessment**

7.4.1 Having regard to the nature of the development and fully serviced nature of the site and having regard to the receiving environment and 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 Recommendation**

8.1 Refuse permission for the following reason:

### **Reasons and Considerations**

1. The proposed development would have a serious adverse impact on the protected structure Doon Church (Ref RPS-KY-4-24 NIAH Ref 21300407) which is of architectural, historical and social importance. The proposed development by reason of its design and layout would, seriously injure the setting and character of a protected structure in a manner that would be contrary to the Architectural Heritage Protection Guidelines for Planning Authorities issued by the Department of the Environment Heritage and Local Government in December, 2004, and contrary to objective H-38 of the Kerry County Development Plan 2015-2021, would seriously injure the amenities of the area and would, therefore, be contrary to the proper planning and sustainable development of the area.

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Bríd Maxwell  
Planning Inspector

12<sup>th</sup> January 2021