



An  
Bord  
Pleanála

## Inspector's Report

### ABP-317611-23

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<b>Development</b>	Demolish derelict building, reduce site levels and build one house and two apartments with all necessary ancillary services.
<b>Location</b>	O'Curry Street, Kilkee, Co. Clare.
<b>Planning Authority</b>	Clare County Council
<b>Planning Authority Reg. Ref.</b>	23128
<b>Applicant(s)</b>	Mary O'Meara
<b>Type of Application</b>	Permission.
<b>Planning Authority Decision</b>	Refuse Permission
<b>Type of Appeal</b>	First Party
<b>Appellant(s)</b>	Mary O'Meara
<b>Observer(s)</b>	Development Applications Unit (DAU)
<b>Date of Site Inspection</b>	19th April 2024
<b>Inspector</b>	Claire McVeigh

## 1.0 Site Location and Description

- 1.1. The subject site of a stated 0.057ha, O'Curry Street, is located in the small Victorian seaside town of Kilkee in west Clare. On the eastern side of O'Curry Street the existing building comprises a part single storey raised ground floor level with stepped access and part two storey building, currently vacant, with a side access pedestrian passageway. The front façade has been altered to create a shopfront with signage for a previous use as a takeaway.
- 1.2. The building is located between the former Allied Irish Bank a protected structure (RPS ref no. 398) (NIAH No. 20301001) currently in use as a residence (owned by the applicant) and a two-storey residential property to the south of the subject site. To the north of the former AIB building is a similar single storey building which mirrors the scale and form of the subject site's existing building, providing a symmetry framing the AIB building. There is on street parallel parking in front of the subject site.

## 2.0 Proposed Development

- 2.1. The proposal is to demolish the existing building and construct a 4 no. bedroom house and two 2 no. bedroom apartments. It is proposed to lower the site levels to provide for entrances to the proposed house and apartments level with the public footpath.
- 2.2. The proposed new buildings are two storey with attic accommodation at roof level, a ridge height proposed of 10.470 m. A double height bay window is proposed to the elevation of the apartments and a single bay window proposed to the elevation of the proposed house. No car parking is proposed on site. Rear private patios are proposed to serve each unit, providing space for bin storage and an outside shower. From the drawings submitted it is unclear how the amenity space proposed for the first-floor apartment is accessed, it would appear that to access to the rear patio space for the first-floor apartment is possible via the side laneway and across the rear of the ground floor apartment's amenity space.
- 2.3. The second-floor plan does not accurately illustrate the proposed windows serving the bedrooms at this level, when compared to the proposed elevations.

## 3.0 Planning Authority Decision

### 3.1. Decision

On the 22<sup>nd</sup> June 2023 the planning authority decided to refuse planning permission for two reasons:

1. The proposed site is located with {sic} the Kilkee Architectural Conservation Area and is adjacent to the former Allied Irish Bank which is included on the Record of Protected Structures (RPS 398). The Planning Authority considers that the existing single storey building contributes to the character of O'Curry Street and that its demolition and replacement with two storey units, would diminish the character and special interest of the Kilkee Architectural Conservation Area. Furthermore, it is considered that the proposed development, by reason of its design, proportions, large scale and significant height would diminish the context of existing buildings within the environs of the site, would be contrary to Clare County Development Plan 2023-2029 objective CDP 16.5 and therefore would be contrary to the proper planning and sustainable development of the area.
2. The proposal site is located within the designated Town Centre of Kilkee and is zoned for Mixed Use Development in the Clare County Development Plan 2023-2029. The proposed development, which would change the use of this centrally located and prominent site on the main street in Kilkee from commercial to residential use would erode the existing service base in Kilkee for both visitors and the local population, would have adverse impacts on the vitality and viability of Kilkee Town Centre and would not provide for the sustainable growth of Kilkee and would therefore be contrary to the proper planning and sustainable development of the area.

A 2 month extension of time to the planning period from the 26<sup>th</sup> April 2023 up to and including the 25<sup>th</sup> day of June 2023 was requested and agreed.

### **3.2. Planning Authority Reports**

#### **3.2.1. Planning Reports**

Area Planner's report assessed the development in terms of the proposed 'Mixed use' land use zoning, part V exemption, visual amenities and built heritage taking into account the site is within the Kilkee ACA and adjacent to protected structure RPS 398, adjacent amenities, compliance with apartment standards, water services and access and parking, appropriate assessment and EIA preliminary examination. Final report recommended a refusal of permission.

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

Transportation and Road Design Office recommendations with respect to roadside drainage and construction waste management.

Senior Executive Engineer West Clare Municipal District notes no additional accessed onto the public road network proposed and that the development will replace like for like from road and traffic safety perspective. Recommended conditions with respect to the construction of the development and the public road and footpath, including the replacement of the public footpath for the full length of the roadside boundary upon completion of the development work.

Clare County Council Fire Authority – no objection to the proposed development provided it complies with the Building Regulations 1997 and latest amendments.

### **3.3. Prescribed Bodies**

Uisce Éireann no objection to water supply

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

- 3.4.1. Eoin Gleeson concerns with respect to validity of application, the proposed drawings do not include the adjoining property to the south east of the subject site and drawings do not illustrate the existing height of the building to allow for comparison with proposed, no shadow analysis submitted, building line concerns with 'Old Bank', all glazing on the north east elevation should be obscure to avoid overlooking, three storey height excessive, the raised area to the rear is against the common natural stone boundary which gives rise to concerns about increased overlooking.

3.4.2. Cllr P J Kelly requested to be placed as representative on the planning application.

## 4.0 Planning History

### Subject site

Planning register reference 22/51 [Withdrawn March 2022] to demolish existing commercial premises and replace it with one dwelling and two apartments with all necessary ancillary services.

Site southwest of the subject site fronting O'Curry Street and laneway that runs southeast of the subject site.

Planning register reference 06/533 permission granted for demolition of existing dwellinghouse on site and to build 10 no. town houses and two no. commercial units with all necessary ancillary service.

Planning register reference 08/1403 permission granted for change of use from two no. Commercial units to one commercial unit and one first floor apartment.

Planning register reference 18/334 permission granted for change of use of building granted under planning ref.no. P06-533 from two commercial units to one commercial unit and one no. apartment along with all associated site works.

## 5.0 Policy Context

### 5.1. Development Plan

The subject site is located within the settlement boundary of the small town of Kilkee and within its Architectural Conservation Area noted for its unique character as a 19<sup>th</sup> century bathing place.

Development Plan Objective: Small Towns CDP 4.6 It is an objective of Clare County Council:

- a) To ensure that the small towns throughout the county continue to act as important local service centres that maintain sustainable communities, help to ensure a good quality environment, provide public transport to the main centres, and provide a high quality of life for those who live in the vicinity;

- b) To work with the relevant bodies and to seek investment for the timely and sustainable delivery of holistic infrastructure, to enhance the levels of amenity and design quality and to regenerate and rejuvenate the Small Towns throughout the county;
- c) To ensure that future growth is incremental and balanced in nature, and is relative and appropriate to the scale, size and character of the small towns and to seek to achieve centre out compact growth;
- d) To seek investment in the sustainable development of a “New Homes in Small Towns and Villages” initiative in the County and the provision of serviced sites to create “build your own home” opportunities within the existing footprint of small towns; and
- e) To monitor the cumulative effect of grants of planning permission on available wastewater capacity, where connection to a public wastewater treatment plant is included as part of a development proposal.

Development Plan Objective: Architectural Conservation Areas (ACAs) CDP16.5 It is an objective of Clare County Council:

- a) To ensure that new developments within or adjacent to an ACA respect the established character context of the area and contribute positively to the ACA in terms of design, scale, setting and material finishes;
- b) To protect from demolition or removal and non-sympathetic alterations, existing buildings, structures, groups of structures, sites, landscapes and features such as street furniture and paving, which are considered to be intrinsic elements of the special character of the ACA;
- c) To ensure that all new signage, lighting, advertising and utilities to buildings within an ACA are designed, constructed and located in a manner that does not detract from and is complementary to the character of the ACA; and
- d) To ensure that external colour schemes in ACAs enhance the character and amenities of the area and reflect traditional colour schemes.

Development Plan Objective: Revitalisation of Vernacular Heritage CDP16.4 It is an objective of Clare County Council:

- a) To seek the retention, appreciation and appropriate revitalisation of the vernacular heritage of County Clare, in towns, villages and rural areas, by discouraging the replacement of good quality vernacular buildings with modern structures and by protecting vernacular buildings where they contribute to the character of an area or settlement and/or where they are rare examples of a structure type;
- b) To support proposals to refurbish vernacular structures that are in a sub-standard or derelict condition, provided that: I. Appropriate traditional building materials and methods are used to carry out repairs to the historic fabric; II. Proposals for extensions to vernacular structures are reflective and proportionate to the existing building and do not erode the setting and design qualities of the original structure which make it attractive III. Direction for the design is taken from the historic building stock of the area, though it can be expressed in contemporary architectural language; and
- c) To ensure that visitor pressures from tourism associated with built and cultural heritage do not impact negatively on the capacity of local services (including water, waste water) or facilities such as car parking.

Development Plan Objective: Architectural Heritage CDP16.1 It is an objective of Clare County Council:

- a) To ensure the protection of the architectural heritage of County Clare through the identification of Protected Structures, the designation of Architectural Conservation Areas, the safeguarding of historic gardens, and the recognition of structures and elements that contribute positively to the vernacular and industrial heritage of the county;
- b) To ensure that the archaeological and architectural heritage of the county is not damaged either through direct destruction or by unsympathetic developments; and
- c) To support and promote architectural vernacular skills training and facilities in the county.

The subject site is zoned Mixed Use.

(Excerpt) Development Plan Objective: Holiday Homes CDP5.14 It is an objective of the Development Plan:

- a) To permit holiday homes in settlements where the developments are of a scale and at a location which contribute to sustainable communities, while ensuring an appropriate balance between the number of permanent homes and holiday homes;
- b) In settlements where an overconcentration of holiday homes has been identified, namely Ballyvaughan, Bellharbour, Bunratty, Carrigaholt, Doolin, Doonbeg, Fanore, Kilkee, Lahinch, Liscannor, Mountshannon, Querrin and Spanish Point to permit new residential development for permanent occupancy only

### **Volume 3d West Clare Municipal District Settlement Plans - Kilkee**

...The demand for holiday accommodation has led to a shortfall in the provision of permanent, social and affordable housing in the town.

...The seasonal change in population also places a considerable strain on the town's infrastructure and, as with most seaside resorts, the town experiences extremes of seasonality. It is therefore important to ensure that future development is balanced and contributes to a thriving community which can support a range of services which are viable on a year round basis.

...There is currently limited wastewater treatment in Kilkee, however, a new wastewater treatment plant, pumping station and rising main after planned for the town. The wastewater treatment plant is due to be completed within the lifetime of the Plan.

Kilkee adjoining the Kilkee Reefs Special Area of Conservation (SAC) and future development must ensure there are no adverse effects on the conservation objectives of the SAC or on the site integrity, or any European Site as a result of proposed development.

#### *General Objectives (excerpt)*

- To make provision for the sustainable growth of Kilkee by providing for a permanent resident population through the allocation of land within the town

for the appropriate provision of permanent private, social, and affordable housing, employment, services and recreational/open space.

- To encourage the further development of the retail, commercial and service sector in the town centre. The redevelopment of existing unused or derelict structures for retail or commercial purposes or for the provision of services will be particularly encouraged especially those sites identified in 'Towards a Better Kilkee'

#### *Town Centre:*

The centre of the town of Kilkee has been designated as an Architectural Conservation Area (ACA). ACAs are places, areas, groups of structures or a townscape which are of special interest or contribute to the appreciation of a Protected Structure. The aim is to retain the overall special historic or architectural character of an area or place in line with Objective CDP 16.5 in Volume 1 of the Plan. Any future development within the town centre on Mixed Use zoning must ensure the protection and maintenance of Protected Structures on the lands.

It is an objective of the Council:

- To work with the owners of vacant, underutilised, and derelict sites/buildings to identify new uses and promote the re-use/redevelopment of these sites/buildings. In this regard, the Council will use its powers as necessary under the Derelict Sites Act 1990 and Housing and Urban Regeneration Act 2015.
- To promote sustainable and compact growth in the town to address issues of vacancy and dereliction. This could include the preparation of a town centre first masterplan as well as the promotion of the Croí Cónaithe (Towns) Fund Scheme to support the reuse/redevelopment of vacant and derelict commercial and residential properties in the town with a focus on getting these back into sustainable use.

**Towards a Better Kilkee:** A Town Improvement & Economic Development Strategy 2014-2024

## 5.2. Natural Heritage Designations

The subject site is located approximately 100m from the European Site - Kilkee Reefs Special Area of Conservation (SAC Site Code: 2264).

## 5.3. EIA Screening

See completed Form 2 on file. Having regard to the nature, size and location of the proposed development and to the criteria set out in Schedule 7 of the Regulations I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from the proposed development. EIA, therefore, is not required.

## 6.0 The Appeal

### 6.1. Grounds of Appeal

The grounds of the first party appeal can be summarised as follows:

- Invalid decision as the reasons given rely on objective CPD16.5 of the Clare County Development Plan 2023-2029. The application was made on 2<sup>nd</sup> March 2023 and as such should have been assessed under the 2017-2023 development plan.
- Does not accept reason no. 1 to refuse permission, and raises the following:

The decision does not take into account the current derelict and dangerous condition of the building, as it is stated to be demonstrated in the Architectural Heritage Report and structural report\*, submitted with the application, or the inability to comply with current Building Control Regulations due to its current elevated height over the footpath.

The proposed design is in keeping with current developments in its immediate and wider vicinity.

Proposed height is lower than that of the former AIB bank and site coverage is 38%.

There is precedent for demolition in the Architectural Conservation Area if Kilkee and planning register references provided to demonstrate same.

It is not financially viable or structurally safe to retain the existing building in its current format.

- In respect to reason no. 2 to refuse permission, the following points are made:

The building was a private family home until early 1980s. There is no evidence of planning permission having been granted for the buildings change of use from residential to commercial use.

The greater level of commercial activity in Kilkee and O'Curry Street in particular is totally dependent on tourism, commercial units are in low demand and are not financially viable.

\*A report on the current Development Proposal and Structural Integrity of Existing Building has been submitted (prepared by Architectural Conservation Professionals). This survey is for another building on O'Curry Street and not the subject of this appeal.

## 6.2. Planning Authority Response

- Notes the appellant's grounds of appeal.
- Refers to the considerations set out in the planner's report.
- Requests that An Bord Pleanála uphold the Council's decision.

## 6.3. Observations

Development Applications Unit (DAU) Department of Housing, Local Government and Heritage.

- Kilkee Reefs Special Area of Conservation (SAC Site Code: 2264). The development site comprises an existing building connected to the public sewage system. Potential impacts on water quality in the European site through the Kilkee wastewater system are of potential concern.

No observations received from the Heritage Council, Failte Ireland, An Taisce or An Chomhairle Ealaíon.

## 7.0 Assessment

7.1. Having examined the application details and all other documentation on file, including all the submissions received in relation to the appeal, the reports of the local authority and having inspected the site, and having regard to the relevant local, regional, national policies and guidance, I consider that the substantive issues in this appeal to be considered are as follows:

- Applicable development plan;
- Visual impact on the character and special interest of the Kilkee Architectural Conservation Area and adjoining protected structure;
- Impact on the vitality and viability of Kilkee Town Centre; and
- Appropriate assessment screening – New Issue

### 7.2. *Applicable development plan*

7.2.1. The applicant has raised concerns with respect to the planning authority applying the incorrect development plan in their considerations on the subject application and therefore, the planning decision is invalid. I acknowledge that the applicants submitted their application on the 2<sup>nd</sup> March 2023 with the planning authority and the effective in plan in place at this time was the Clare County Development Plan 2017-2023. The new Clare County Development Plan 2023-2029 was adopted at a special meeting held on the 9<sup>th</sup> March 2023, with the new plan coming into effect six weeks from the day it was adopted on the 20<sup>th</sup> April 2023 in accordance with Section 12 (17) of the Planning and Development Act 2000, as amended. The planning authority made the decision to refuse planning permission by Chief Executive Order dated the 22<sup>nd</sup> June 2023. I highlight for the Board that a request by the applicant for an extension of time on the planning application up to the 25<sup>th</sup> June 2023 was approved. Therefore, the relevant plan applicable to the assessment of the application at the time of making the decision is the Clare County Development Plan 2023-2029.

7.3. *Visual impact on the character and special interest of the Kilkee Architectural Conservation Area and adjoining protected structure.*

- 7.3.1. As taken from the submitted Architectural Heritage Report O'Curry Street, as part of the Kilkee Architectural Conservation Area, is located in the area east of the town known as Dough. The report notes that Dough is the Irish word for sandhills. Originally principally a residential street, according to Hogan's Directory of 1863, O'Curry Street grew more commercial in nature as the 19<sup>th</sup> century developed. The Architectural Heritage Report considers that "the character of the buildings is underscored by their simplicity of detail interspersed with decorative flourishes, many original shopfronts and the use of traditional materials" and in respect to the subject site notes the "painted rendered walls with whimsically lugged square-headed fixed pane timber window openings...with more recent intervention of two uPVC doors and window". I note that the Architectural Heritage Report makes reference (section 4.0) to the proposed retention of front façade of O'Curry Street in keeping with the building being within an ACA. Furthermore, in section 5.1 summary of conclusions considers that "...the proposed plans represent the best modern design whilst respecting the existing historic fabric bringing no.2 up to current Irish building standards and efficiency". In my opinion there appears to be a misunderstanding by the Architectural Heritage Consultants of the current proposal to demolish the existing building in its entirety, with no façade retention.
- 7.3.2. The applicant submits that the current dwelling is in a dangerous condition and that there are concerns that any interaction with the structure of the building or the removal of the rear extension will leave the original stone building unsupported and in danger of collapse. I note the submitted 'Report on the current development proposal and the structural integrity of the existing building' prepared by the agent submitting the planning application on behalf of the applicant. These consultants also worked in a neighbouring development to the southwest (Planning register refer 06/533) and have provided photographs of the necessary structural concrete beams in piles required during construction of development on lands to the southwest of the subject site. To practically construct such foundations would require access for piling rig and associated plant, which it is stated renders the retention of the existing structures unviable (section 3.1). In terms of the scope, I note that the report clearly

sets out it is prepared in the basis of a visual survey of the building (preliminary examination) and that no opening up works were undertaken.

- 7.3.3. I would concur with the Architectural Heritage Report that the visual diversity of the façade adds to the streetscape and is of merit and, furthermore, I consider its subservient scale flanking the protected structure, as mirrored by the single storey to the north of the former bank building, contributes significantly to the prominence and special character of this protected structure. The proposed scheme to demolish the existing building and replace with two buildings with a ridge height exceeding 10 metres, more than 3 metres above the existing ridge line projecting out beyond the neighbouring property will result an imbalance in the scale of buildings flanking the protected structure and will result in a large principally blank side gable wall which will result in a visually overbearing impact on the existing residential property south of the subject site and would not in my view contribute positively to the ACA in terms of design, scale, setting and material finishes in accordance with development plan objective CDP16.5.
- 7.3.4. In the interest of clarity, I note that a report prepared by Architectural Conservation Professionals has been submitted with the appeal entitled 'Building Condition Survey and Photographic Evaluation' for a different dwelling house on O'Curry Street. This conservation report related to the demolition of part of a neighbouring development stated on Appendix A of the submitted appeal as being 'northwest of the site'. This property is in fact southwest of the subject site and encompasses a significantly larger site area of which comprises the lands adjacent to the laneway and to the rear of the laneway that runs to the southeast of the subject site (Planning register reference P06/533 see planning history section 4.0 above). I note that this example has been submitted to demonstrate precedent for other cases involving demolition along O'Curry Street, but I am of the opinion that this example, of a much larger site and a corner and laneway redevelopment, is not comparable with the midblock position that the subject appeal site holds.
- 7.3.5. Therefore, having regard to the existing character and the prevailing pattern of development, the site location within an Architectural Conservation Area and the presence of a structure on adjoining site of architectural interest which is listed as a Protected Structure in the current Development Plan for the area, it is considered that the proposed development, by reason of its scale, height, massing and design,

would be out of scale with its surroundings, would seriously detract from the architectural character and setting of the former Allied Irish Bank protected structure RPS no. 398 and of the streetscape generally. The proposed development would, therefore, materially and adversely affect the character of this Protected Structure, would seriously injure the visual amenities of the designated Architectural Conservation Area and would be contrary to the proper planning and sustainable development of the area.

#### 7.4. *Impact on the vitality and viability of Kilkee Town Centre*

- 7.4.1. The second reason for refusal by the planning authority was based on the change of use from the commercial use, previously Barry's Takeaway, to residential use as it would erode the existing service base in Kilkee for both visitors and the local population. The applicant in their appeal has provided additional details on the history of the property and its use as a private family home until early 1980's. It is put forward by the applicant that no record of planning permission for the buildings change of use from residential to commercial is evident.
- 7.4.2. The development plan objectives for Kilkee, contained in Volume 3d West Clare Municipal District Settlement Plans) seeks to both make provision for the sustainable growth of Kilkee by providing for permanent resident population and also seeks to further develop the retail, commercial and service sector in the town centre. I consider that achieving a balance between these objectives is key to making Kilkee a successful town. The 'Towards a Better Kilkee' town improvement and economic development strategy does highlight the role that seasonality plays in Kilkee. Seasonality "is both an opportunity and a challenge, during the season a sustainable business needs to earn enough to cover annual costs". It is an objective of that strategy (ED4) to pursue other economic development opportunities, separate to tourism, for Kilkee.
- 7.4.3. The development plan identifies O'Curry Street as the main commercial focus of the town, with some locally orientated provision on O'Connell Street. Taking into account development plan objective CDP 4.6 and given the mixed-use zoning of the site I would concur with the planner's concerns with respect to the erosion of the service base on the main commercial street in Kilkee and the reduction of commercial

frontage along O'Curry Street. I am of the opinion that the proposal to demolish the vernacular building in the ACA and provision of 3 no. residential units is not of sufficient quality to justify the loss of the commercial space, as assessed in section 7.3 of this report and I recommend that permission is refused on this basis.

- 7.4.4. Acknowledging the commercial viability challenges presented with a commercial use at this site, taking in account that the building is currently vacant, the previous residential use of the building and the subject site's position between two residential properties in the event the Board is minded to grant permission I recommend that the residential uses be conditioned to be used as a place of permanent residence and shall not be used for short term tourist accommodation having regard to development plan objective CDP5.14 relating to the overconcentration of holiday homes in Kilkee.
- 7.5. *Appropriate assessment screening – New Issue*
- 7.6. Please see Appendix 3. In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development may be likely to have a significant effect on the Kilkee Reefs SAC 'alone' in respect of effects associated with uncertainty in respect to wastewater treatment capacity.
- 7.7. On the basis of the information provided with the application and appeal and in the absence of an Appropriate Assessment Screening Report and/or Natura Impact Statement (as appropriate) the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Kilkee Reefs SAC.
- 7.8. No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.
- 7.9. This is a new issue and the Board may wish to seek the views of the parties. However, having regard to the other substantive reason for refusal set out below, it may not be considered necessary to pursue the matter.

## 8.0 Recommendation

I recommend that permission is refused in accordance with the following reasons and considerations:

## 9.0 Reasons and Considerations

1. Having regard to the existing character and the prevailing pattern of development, the site location within an Architectural Conservation Area and the presence of a structure on adjoining site of architectural interest which is listed as a Protected Structure in the current Development Plan for the area, it is considered that the proposed development, by reason of its scale, height, massing and design, would be out of scale with its surroundings, would seriously detract from the architectural character and setting of the former Allied Irish Bank protected structure RPS no. 398 and of the streetscape generally. The proposed development would, therefore, materially and adversely affect the character of this Protected Structure, would seriously injure the visual amenities of the designated Architectural Conservation Area and would be contrary to the proper planning and sustainable development of the area.
2. On the basis of the information provided with the application and appeal and in the absence of an Appropriate Assessment Screening and/or Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Kilkee Reefs SAC.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

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Claire McVeigh  
Planning Inspector

31 May 2024

## Appendix 1 - Form 1

### EIA Pre-Screening

[EIAR not submitted]

<b>An Bord Pleanála Case Reference</b>	317611-23		
<b>Proposed Development Summary</b>	Demolish existing building, reduce site levels and build one house and two apartments with all necessary ancillary services.		
<b>Development Address</b>	O'Curry Street, Kilkee, Co. Clare		
<b>1. Does the proposed development come within the definition of a 'project' for the purposes of EIA?</b> <small>(that is involving construction works, demolition, or interventions in the natural surroundings)</small>	<b>Yes</b>	√	
	<b>No</b>		
<b>2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?</b>			
<b>Yes</b>			
<b>No</b>	√		Proceed to Q.3
<b>3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?</b>			
		<b>Threshold</b>	<b>Comment (if relevant)</b>
			<b>Conclusion</b>
<b>No</b>		N/A	
<b>Yes</b>	√	Class/Threshold: Part 2 Class 10 (b) Construction of more than 500 dwelling units.	Proceed to Q.4

**4. Has Schedule 7A information been submitted?**

<b>No</b>	√	<b>Preliminary Examination required</b>
<b>Yes</b>		<b>Screening Determination required</b>

**Inspector:** \_\_\_\_\_ **Date:** \_\_\_\_\_

## Appendix 2: Form 2

### EIA Preliminary Examination

An Bord Pleanála Case Reference	317611-23	
Proposed Development Summary	Demolish existing building, reduce site levels and build one house and two apartments with all necessary ancillary services.	
Development Address	O'Curry Street, Kilkee, Co. Clare	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
<p>Nature of the Development</p> <p>Is the nature of the proposed development exceptional in the context of the existing environment?</p> <p>Will the development result in the production of any significant waste, emissions or pollutants?</p>	<p>The proposed development is for the demolition of an existing building and construction of one house and two apartments.</p> <p>It is proposed to reduce the site levels to bring the ground floor in line with the public footpath. No significant waste, emissions or pollutants are likely.</p>	No
<p>Size of the Development</p> <p>Is the size of the proposed development exceptional in the context of the existing environment?</p> <p>Are there significant cumulative considerations having regard to other existing and/or permitted projects?</p>	<p>The size of the proposed development is notably below the mandatory thresholds in respect of a Class 10 Infrastructure Projects of the Planning and Development Regulations 2001 as amended.</p> <p>There is no real likelihood of significant cumulative considerations having regard to other existing and/or permitted projects in the adjoining area.</p>	No
Location of the	The application site is located approximately 100m	



## Appendix 3: Screening for Appropriate Assessment

### Screening Determination

#### Step 1: Description of the project

I have considered the proposed demolition of existing building, reduction in site levels and construction of one house and two apartments in light of the requirements of S177U of the Planning and Development Act 2000 as amended.

The subject site of a stated 0.057ha, O'Curry Street, is located in the small Victorian seaside town of Kilkee in west Clare. The subject site is located approximately 100m from Kilkee Reefs Special Area of Conservation (SAC Site Code:2264).

The Development Applications Unit (DAU) Department of Housing, Local Government and Heritage note that the subject site is an existing building in a town connected to the public sewage system. The DAU note that potential impacts on water quality in the European Site through the Kilkee wastewater system are of potential concern.

#### Step 2: Potential impact mechanisms from the project [consider direct, indirect, temporary/permanent impacts that could occur during construction, operation and, if relevant, decommissioning]

During the demolition and construction phase there is potential for surface water runoff from site works to temporarily discharge into Kilkee bay (100 to the west of the subject site).

All foul and surface water runoff once the residential units are occupied will be via public sewer and public sewer/ drain respectfully. The wastewater will discharge to Kilkee WWTP.

#### Step 3: European Sites at risk

With reference to the potential impact mechanisms from the proposal, identify the European site(s) and qualifying features potentially at risk. Examine Site specific conservation objectives and relevant and supporting documents.

I have considered all QI for which the site has been designated and ones I considered to be potentially at risk are those set out in table 1 below.

<b>Table 1 European Sites at risk from impacts of the proposed project</b>			
<b>Effect mechanism</b>	<b>Impact pathway/Zone of influence</b>	<b>European Site(s)</b>	<b>Qualifying interest features at risk</b>
A: Potential for surface water runoff from site works to temporarily discharge into Kilkee bay	The site is located approximately 100m from Kilkee Bay	Kilkee Reefs SAC <a href="https://www.npws.ie/protected-sites/sac/002264">https://www.npws.ie/protected-sites/sac/002264</a>	Large shallow inlets and bays [1160]  Reefs [1170]  Submerged or partially submerged sea caves [8330]
B: All foul and surface water runoff once the residential units are occupied will be via public sewer and public sewer/drain respectfully. The wastewater will discharge to Kilkee WWTP.	The site is located approximately 100m from Kilkee Bay.	Kilkee Reefs SAC <a href="https://www.npws.ie/protected-sites/sac/002264">https://www.npws.ie/protected-sites/sac/002264</a>	Large shallow inlets and bays [1160]  Reefs [1170]  Submerged or partially submerged sea caves [8330]

Kilkee Reefs SAC - The Kilkee Reefs are situated north of the River Shannon Estuary on the Co. Clare coast. The site stretches for approximately 12 km from Ballard Bay to Castle Point. The reefs are exposed to the full force of Atlantic swells from the west. A small shallow bay, Moore Bay, offers some shelter from wave action and a beach is present.

The bedrock is Carboniferous millstone grit and flagstone. A few small islands are included, the largest being Bishop's Island. This site is significant as it consists of a Reef habitat and a shallow bay habitat which is both listed under Annex I of the EU Habitats Directive.

Table 1 includes QIs which could potentially be considered at risk from the project.

#### Step 4: Likely significant effects on the European site(s) 'alone'

Taking account of baseline conditions, and the effects of ongoing operational plans and projects, consider whether there is a likely significant effect 'alone'. The question being asked is whether it is possible that the conservation objectives might be undermined from the effects of the project 'alone'.

**Table 2: Could the project undermine the conservation objectives 'alone'**

European Site and qualifying feature	Conservation objective (summary)	Could the conservation objectives be undermined (Y/N)?	
		Effect A surface water	Effect B wastewater discharge
Kilkee Reefs SAC			
Large shallow inlets and bays [1160]	To maintain the favourable conservation condition of Large shallow inlets and bays in Kilkee Reefs SAC.	N	Y
Reefs [1170]	To maintain the favourable conservation condition of Reefs in Kilkee Reefs SAC.	N	Y
Submerged or partially submerged sea caves [8330]	To maintain the favourable conservation condition of Submerged or partially submerged sea caves in Kilkee Reefs SAC.	N	Y

The construction phase, including surface water runoff from site works, will not result in significant environmental impacts that could affect European Sites within the wider catchment area.

The DAU have identified potential impacts on water quality in the European Site through the Kilkee wastewater system are of potential concern. The proposed development comprises the change of use of a vacant commercial unit to 3 no. residential units.

Volume 3d of the development plan identifies that there is currently limited wastewater treatment in Kilkee, however, a new wastewater treatment plant, pumping station and rising main are planned for the town. The wastewater

treatment plant is due to be completed within the lifetime of the plan (Page 45). It is stated that all future development will be contingent upon the provision of adequate wastewater treatment.

I note that the report received from Uisce Éireann notes no objection with respect to water supply but does not make reference to wastewater treatment.

No evidence has been provided that there is adequate WWTP capacity within the existing facility. The lack of information in respect to provision of adequate wastewater treatment results in uncertainty. The change in wastewater loading may have the potential to impact on water quality in the European Site given the stated limited wastewater treatment in Kilkee. Likely significant effects cannot be ruled out with certainty.

I conclude that the proposed development may be likely to have a significant effect 'alone' on Kilkee Reefs SAC from effects associated with uncertainty in respect to wastewater treatment capacity. An appropriate assessment screening and/or Natura Impact Statement, as appropriate is required on the basis of the effects of the project 'alone'. Further assessment in-combination with other plans and projects is not required at this time.

**Step 5: Where relevant, likely significant effects on the European site(s) 'in-combination with other plans and projects'**

Not applicable given findings at step 4.

**Overall Conclusion- Screening Determination**

In accordance with Section 177U(4) of the Planning and Development Act 2000 (as amended) and on the basis of objective information I conclude that the proposed development may be likely to have a significant effect on Kilkee Reefs SAC 'alone' in respect of effects associated with uncertainty in respect to wastewater treatment capacity.

On the basis of the information provided with the application and appeal and in the absence of an appropriate assessment screening and/or Natura Impact Statement the Board cannot be satisfied that the proposed development individually, or in combination with other plans or projects would not be likely to have a significant effect on Kilkee Reefs SAC.

No measures intended to avoid or reduce harmful effects on European sites were taken into account in reaching this conclusion.