



An
Bord
Pleanála

Inspector's Report ABP321375-24

Development	Retention of polytunnel structure for growing fruit and vegetables.
Location	Drumcreehy House, Bishops Quarter, Ballyvaughan, Co. Clare.
Planning Authority	Clare County Council.
Planning Authority Reg. Ref.	2460456
Applicant	Alber Capital Ltd.
Type of Application	Permission.
Planning Authority Decision	Permission with conditions.
Type of Appeal	Third Party
Appellant	Marie Brady & Lorcán O'Toole
Observer	None
Date of Site Inspection	18 th February 2025.
Inspector	Derek Daly

1.0 Site Location and Description

- 1.1. The development is located in the townland of Bishopsquarter approximately 2 kilometres to the northeast of Ballyvaughan in County Clare. The site fronts onto the N67 which defines the sites western boundary. On the site is a two storied dormer dwelling which the planning history refers to having a use as a bed and breakfast facility but at the time of inspection where was no indication that this use was in operation. There are dwellings on the adjoining boundaries to the north a dormer dwelling and to the south also a two storey/dormer dwelling and these dwellings form part of a row of dwellings fronting onto the N67.
- 1.2. The polytunnel for retention is located in the landscaped front garden in close proximity proximate to the site's northern boundary northern and forward of the front building line of the dwelling on the site and the dwellings on the adjoining sites. The dwelling on the site is setback in the eastern area of the site with open space primarily in the front area of the site. There is also a shed in the northeastern area of the site.

2.0 Proposed Development

- 2.1. The proposed development as received by the planning authority on the 23rd September 2024 was for the retention of polytunnel structure with an approximate floor area of 28.6m² (6020mm x 4570mm) and a maximum height of 2470mm for growing fruit and vegetables. The structure in question has a metal frame and external finish of plastic sheeting.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. The decision of the Planning Authority was to grant planning permission subject to two conditions.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 5th November 2024 refers to the planning history of the site; provisions of the current County Development Plan (CDP); submissions received and an assessment of the proposal. There was no objection in principle to the proposed retention of the structure. Whilst the structure is sited to the front of the house, having regard to the established residential use and garden space, it was considered that the proposal would not negatively impact on the visual amenities of the area, however if not properly maintained such structures can over time become tattered and unsightly and in this regard appropriate conditions be attached in order to ensure the continued maintenance of the structure. Visual amenity, the issues raised by the third party submission, traffic and flood risk was also considered. Permission was recommended.

3.2.2. Submissions from Prescribed Bodies

Transport Infrastructure Ireland requested that the planning authority has regard to the provisions of official policy for development proposals impacting national roads. to the DoECLG Spatial

Uisce Eireann indicated it is anticipated that there will be no adverse impact on any assets or sources

3.2.3. A third party submission was received.

4.0 Planning History

4.1.1. P.A Ref. No 21/ 314 Permission refused for a material change of use from existing Bed and Breakfast facility, currently used as breakfast dining rooms, to Café and Tea Rooms, Permission for a new wc extension and associated site works.

P.A Ref. No 15/ 725 Permission granted for the erection of a domestic wind turbine to the rear of existing dwelling with associated site works 06/1654- for the erection of a domestic wind turbine with associated site work,

P.A Ref. No Enforcement file UD 24/055 - File opened re polytunnel on foot of a written complaint.

5.0 Policy and Context

5.1. Development Plan

5.1.1. The statutory development plan is the Clare County Development Plan 2023-2029.

5.1.2. The subject site is located off a designated Scenic Route and within a Heritage Landscape. Relevant provisions include;

5.1.3. CDP 14.5 Heritage Landscapes

It is an objective of Clare County Council: To require that all proposed developments in Heritage Landscapes demonstrate that every effort has been made to reduce visual impact. This must be demonstrated for all aspects of the proposal- from site selection through to details of siting and design. All other relevant provisions of the Development Plan and the RSES must be complied with. All proposed developments in these areas will be required to demonstrate;-

- That sites have been selected to avoid visually prominent locations.
- That site layouts avail of existing topography and vegetation to minimise visibility from scenic routes, walking trails, public amenities and roads;
- That design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development.

5.1.4. CDP 14.7 Scenic Routes It is an objective of the development plan:

a) To protect sensitive areas from inappropriate development while providing for development and change that will benefit the rural community;

b) To ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact;

c) To ensure that appropriate standards of location, siting, design, finishing and landscaping are achieved.

5.2. Natural Heritage Designations

5.3. The subject site is located within 600 metres of the boundaries of two designated European sites the Inner Galway Bay SPA site code 004031 and the Galway Bay Complex site code 000268. There are also two pNHA sites the Moneen Mountain pNHA site code 000054 within 300metres of the site and the Galway Bay Complex pNHA: 000268 within 600m of the site.

5.4. EIA Screening

5.5. The proposed development is not one to which Schedule 5 of the Planning and Development Regulations, 2001, as amended, applies and therefore, the requirement for submission of an EIAR and carrying out of an EIA may be set aside at a preliminary stage.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The third party appeal in summary refers to;

- There is reference to the Planning and Development Regulations 2001 as amended and in particular Clause 3 Schedule 2 Article 6 relating to exempted development and that polytunnels are in effect and exempt and that Article 6(1) states limitations on the exemption in relation to location placed forward of the front wall of the house and area of the structure and that the polytunnel contravenes these conditions/limitations.
- The appellants consider that it is disingenuous to suggest that the polytunnel falls outside of the scope of the limitations of the exempted development class and therefore the conditions of the exempted development should not apply to it.
- As the development is in a highly visible location in front of a house more stringent standards than the exempted development requirements should apply.

- There is no cogent argument put forward to the location of the polytunnel other than insufficient space available at the rear of the dwelling.
- There is ample space in the front garden to grow fruit and vegetables other than using a polytunnel
- The appellants do not accept the position of the planning authority and contend the structure is located in a prominent position which impacts on their property, is beside a national route and will be visually obtrusive at both short and long distance.

6.2. Planning Authority Response

The planning authority in a response indicate;

- That that the appellants understanding is as the development is not exempted development is must be refused, the Planning Regulations clarify the nature and extent of exempted development and the Planning Authority is correct in stating the development is outside of the scope of the conditions and limitations.
- The Planning Authority have no reason to question the bona fide as regard to the need for the tunnel to grow fruit and vegetables.
- The conditions of the permission take cognisance of the requirement to protect residential amenity, the location of the structure in the front garden, proximity to the N67 and its appearance.
- The Planning Authority requests the Board to confirm its decision.

7.0 Assessment

7.1. The main issues in this appeal are principle of the development and the grounds of appeal. Appropriate Assessment also needs to be considered. I am satisfied that no other substantive issues arise.

7.2. The principle of the development and grounds of appeal.

7.2.1. The proposal as submitted is for the retention of polytunnel structure located in the front garden of a property. Polytunnels of a scale, area and height which would not

be considered as commercial would be in principle acceptable as would other structures such as a greenhouse, garage, store, shed or other similar structure which are ancillary and incidental to the enjoyment of the dwelling.

7.3. Grounds of appeal

7.3.1. The appellants in the grounds have raised a number of issues referring to the Planning and Development Regulations 2001 as amended and in particular Clause 3 Schedule 2 and consider that it is disingenuous to suggest that the polytunnel falls outside of the scope of the limitations of the exempted development class and therefore the conditions of the exempted development should not apply to it. Reference is made to the development is in a highly visible location and prominent position which impacts on their property, is beside a national route and will be visually obtrusive at both short and long distance. It is contended that there is no cogent argument put forward to the location of the polytunnel other than insufficient space available at the rear of the dwelling and there is ample space in the front garden to grow fruit and vegetables other than using a polytunnel

7.3.2. In relation to the Planning and Development Regulations 2001 as amended and in particular Clause 3 Schedule 2 the provisions state what is in effect exempted development within the curtilage of a dwellinghouse. As indicated at the time of inspection the building on the site appears to be currently in use as a dwellinghouse. If it not exempted development planning permission is required and any application is considered on the merits of the application and the proper planning and sustainable development of the area. This does not preclude granting permission for a development which is not exempt or exceeds the conditions and limitations as applied to exempted development. It is therefore not a necessary position that as the development is not exempted development it cannot be granted.

Although polytunnels are not specifically referred to in class 3 structures referred to include a tent, awning, shade or other object, greenhouse, garage, store, shed or other similar structure. It is reasonable to consider a polytunnel as a similar structure. The limitations include that no such structure shall be constructed, erected or placed forward of the front wall of a house which in relation to the development under consideration is placed forward of the front building line. There are limitations in relation to area that the total area of such structures constructed, erected or placed

within the curtilage of a house shall not, taken together with any other such structures previously constructed, erected or placed within the said curtilage, exceed 25 square metres and in relation to the polytunnel under consideration it has an approximate floor area of 28.6m². The development is outside the scope of the conditions and limitations.

- 7.3.3. The primary issue to consider is that of visual amenity and impact on residential which are referred to in the grounds of appeal.

The structure in question is in situ. In relation to the issue of visual impact the structure is not visible from the N67 travelling in a westerly direction until immediately approaching the site. The structure is more visible when approaching the site from a westerly direction but it does not break the skyline and has a backdrop. It is visible but is on the landward side of the road and the significant visual sensitivity would be in a northerly direction towards the coastline. I note that the appeal is within the designation of Heritage Landscapes and Scenic Routes with the objectives to avoid visually prominent locations, avail of existing topography and vegetation to minimise visibility from scenic routes, and design for buildings and structures minimise height and visual contrast through careful choice of forms, finishes and colour and that any site works seek to reduce the visual impact of the development and ensure that proposed developments take into consideration their effects on views from the public road towards scenic features or areas and are designed and located to minimise their impact.

I do not consider that the development significantly impacts on the visual qualities of what is a rural landscape given its scale and height and it less prominent than the dwellings in the immediate area or adversely impact on the scenic route.

In relation to impact on residential amenities when viewed from the appellants' property and dwelling as it is forward of the building line it is visible and views from the property are northwards towards the coastline. The level of impact is not however significant and does not restrict views northwards and north westwards given the scale and height of the structure and is not impairing a proscribed view.

I would note that the appellants consider that in front of a house more stringent standards than the exempted development requirements should apply but as

indicated because the development is not exempted development it does not preclude granting permission.

I note the concern that polytunnels by their nature if not properly maintained such structures can over time become tattered and unsightly as referenced by the planning authority and the need for appropriate conditions to address this order to ensure the continued maintenance of the structure which I consider to be reasonable.

In this regard the requirements as set out in condition no 2 of the planning authority decision that the polytunnel be used for gardening purposes only. It shall not be used for any commercial activity or for any purpose other than a purpose incidental to the enjoyment of the residential use of the site; that structure shall be maintained in good condition and any torn or defaced plastic covering shall be removed and replaced with new covering and that the structure shall be secured against wind and inclement weather I consider are reasonable and should be included in a grant of planning permission.

8.0 Appropriate Assessment Screening

- 8.1. I have considered the proposal for the retention of polytunnel structure in light of the requirements S177U of the Planning and Development Act 2000 as amended. The subject site is located on an established residential site.
- 8.2. The subject site is not within and located in excess of 600 metres of designated European sites the Inner Galway Bay SPA site code 004031 and the Galway Bay Complex site code 000268 which consists of the marine and coastal stretches with a large number of qualifying interests in relation to species and habitats.
- 8.3. There are also two pNHA sites the Moneen Mountain pNHA site code 000054 within 300metres of the site and the Galway Bay Complex pNHA: 000268 within 600m of the site. NPWS data identifies that a number of different habitats are found within these designations.
- 8.4. The proposed development comprises in effect an relatively small in area polytunnel structure as outlined in section 2 in the Inspectors report. Having considered the nature, scale and location of the project, I am satisfied that it can be eliminated from

further assessment because there is no conceivable risk to any European Site. The reason for this conclusion is as follows; the nature of the development and the absence of any construction works relating to the development under consideration and distance from these site and absence of identifiable pathways to these sites.

- 8.5. I conclude that on the basis of objective information, that the proposed development would not have a likely significant effect on any European Site either alone or in combination with other plans or projects and likely significant effects are excluded and therefore Appropriate Assessment (stage 2) (under Section 177V of the Planning and Development Act 2000) is not required.

9.0 Recommendation

- 9.1. I recommend that permission be granted.

10.0 Reasons and Considerations

Having regard to the nature of the proposed development, the scale of the development, the pattern of development in the area and the existing residential use on site it is considered that the proposed retention would not seriously injure the amenities of the area or of property in the vicinity and would be in accordance with the proper planning and sustainable development of the area.

11.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by the planning authority on the 23 rd day of September 2024 except as may otherwise be required in order to comply with the following conditions. Reason: In the interest of clarity.
2.	(a) The poly tunnel shall be used for gardening purposes only. It shall not

	<p>be used for any commercial activity or for any purpose other than a purpose incidental to the enjoyment of the residential use of the site.</p> <p>(b) The structure shall be maintained in good condition and any torn or defaced plastic covering shall be removed and replaced with new covering.</p> <p>(c) The structure shall be secured against wind and inclement weather.</p> <p>Reason: In the interest of residential and visual amenity, and for the orderly development of the area.</p>
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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.

Derek Daly
Planning Inspector

5th March 2025

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	321375-24		
Proposed Development Summary	The retention of polytunnel structure for growing fruit and vegetables.		
Development Address	Bishopsquarter, Ballyvaughan, County Clare.		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	Tick if relevant and proceed to Q2.
		No X	Tick if relevant. No further action required
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	Tick/or leave blank	State the Class here.	Proceed to Q3.
No	Tick or leave		

X			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development.	EIA Mandatory EIAR required
No	Tick/or leave blank		Proceed to Q4
4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes	Tick/or leave blank	State the relevant threshold here for the Class of development and indicate the size of the development relative to the threshold.	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes	Tick/or leave blank	Screening Determination required

Inspector: Derek Daly Date: 5th March 2025