



An
Bord
Pleanála

Inspector's Report ABP-303364-19

Development	Two-storey one-bedroom dwelling
Location	An Príomh Sráid, An Clochán Liath, Co. Dhún na nGall
Planning Authority	Donegal County Council
Planning Authority Reg. Ref.	18/51583
Applicant(s)	Paul & Rosemary Gallagher
Type of Application	Retention Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Michael Boyle
Observer(s)	None
Date of Site Inspection	10 th April 2019
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1. The appeal site is located on the northern end of Main Street in Dungloe town centre and is stated to measure 0.01ha. The site is situated to the rear of Bridge End House, which fronts onto Main Street (the R259 regional road) and features a vacant commercial unit at ground floor and a two-bedroom apartment at first floor. A narrow laneway between Bridge End House and the Bayview Bar and Restaurant (Radharc an Camas) provides access to the site and also serves as a pedestrian access to the car park to the rear of the bar and restaurant. The site backs onto an external seating area to the bar and restaurant.
- 1.2. Currently on site is a pitched-roof two-storey one-bedroom building, which is stated by the applicant to be a dwelling and has a stated gross floor area (GFA) of 46sq.m. The building features a small front yard area that is also accessible from an external stairs on the north side of Bridge End House. The site is enclosed by plastered block walls on the south side with the lane and the east side with the external seating area to the bar and restaurant. The northern boundary is marked by a retaining wall structure, which is adjacent to the grounds of a residential property on higher ground and situated amongst extensive gardens.
- 1.3. The surrounding area is primarily characterised by a parade of two-storey commercial and residential buildings fronting onto Main Street. The subject building to the rear of Main Street is elevated approximately 1m above the surface level of the adjacent car park to the bar and restaurant, while ground levels in the area drop gradually towards the Dungloe river, which is approximately 45m to the south.

2.0 Proposed Development

- 2.1. The proposed development, as described in the statutory notices accompanying the planning application, states the following:
 - 'retention of an existing 1.5 storey dwelling unit with all associated site works and ancillary development'.
- 2.2. In addition to the standard details, the planning application was accompanied by a Traffic and Transport Statement.

3.0 Planning Authority Decision

3.1. Decision

3.1.1. The Planning Authority decided to grant retention permission for the development, subject to five conditions, including the following:

- C.2** restriction of use of the dwelling/apartment as a holiday home;
- C.3** car parking shall be omitted and replaced with amenity space for the holiday home;
- C.5** Section 48 contributions apply (€19,000).

3.2. Planning Authority Reports

3.2.1. Planning Report

The initial report of the Planning Officer (March 2018) noted the following:

- the development proposal is considered to constitute a one-bedroom apartment rather than a dwelling unit as described in the application;
- in applying standards for new apartments, the Guidelines allow for flexibility and relaxation of standards when relating to constrained urban infill sites, such as this;
- the building is of modest scale, while the internal floor area meets standards for a one-bedroom apartment. Minimum storage or amenity space is not provided, however the amenity space deficiency can be addressed by omitting the parking;
- the parking arrangement would lead to traffic hazard and a charge for the parking shortfall should be applied.

3.2.2. Other Technical Reports

- Roads Engineer – no response.

3.3. Prescribed Bodies

- Irish Water – no response.

3.4. Third-Party Submissions

- 3.4.1. During consideration of the application by the Planning Authority, two submissions were received, one of which was from a resident of Letterkenny, 45km to the east, and another from the owner and operator of the adjoining Bayview Bar & Restaurant. The issues raised are covered under the grounds of appeal below.

4.0 Planning History

4.1. Appeal Site

- 4.1.1. The following applications relate to the appeal site:

- Donegal County Council (DCC) Ref. 09/30585 – permission granted (February 2010) for amendments to permission granted under DCC Ref. 09/30290 providing for an increased size of the two-storey rear extension to Bridge End House and pedestrian access from the west side;
- DCC Ref. 09/30290 – permission granted (August 2009) for change of use of Bridge End House to ground-floor take-away (commercial) unit, including car parking area to the rear;
- ABP Ref. PL05B.228807 / DCC Ref. 07/31059 – permission refused by the Board (October 2008) for the demolition of a house and construction of a mixed-use three-storey development comprising retail and office space, as the proposals would result in overdevelopment of a restricted site.

4.2. Surrounding Sites

- 4.2.1. Recent applications for development in the vicinity, including the following:

- ABP Ref. PL05E.301814 / DCC Ref. 18/50031 – permission granted (January 2019) for demolition of part of the existing Bayview Bar and Restaurant adjacent to the south of the site and the associated store areas, a new extension to the rear, change of use of existing stores at first-floor level to restaurant use and associated signage;
- DCC Ref. 13/50902 – permission granted (August 2013) for alterations to the house set within extensive gardens, adjoining to the north of the appeal site;

- ABP Ref. PL05B.229561 / DCC Ref. 07/31452 – permission refused (January 2009) for a block of ten residential units backing onto the riverside area to the rear of the Bayview Bar and Restaurant, due to the overdevelopment of the site, the lack of sensitivity for the riverside location, the potential flood risk and the treatment capacity constraints in dealing with the associated wastewater.

5.0 Policy & Context

5.1. Seven Towns Local Area Plan 2018-2024

- 5.1.1. The Seven Towns Local Area Plan (LAP) 2018-2024 outlines that Dungloe is an important tourist destination and hub, which has been boosted in recent times by the Wild Atlantic Way initiative. Traffic congestion on the main streets of the town is a concern. An upgrade of the Dungloe effluent treatment works became operational in 2018, and this has capacity to treat the envisaged future expansion of the town.
- 5.1.2. The appeal site has a zoning objective ‘Town Centre’ within the Seven Towns LAP, where it is the stated objective ‘to sustain and strengthen the defined town centre area, as the centre of commercial, retail, cultural and community life’. The LAP seeks to consolidate the existing residential areas, allow infill opportunities and provide for new residential development in the most suitable locations that are in close proximity to the town centre.

5.2. Donegal County Development Plan 2018-2024

- 5.2.1. The general development management policies and standards of the Donegal County Development Plan 2018-2024 are applicable to the LAP. Relevant policies and sections of the Development Plan include:
- Section 6.2 – urban housing;
 - UB-P-12 – urban housing should protect the amenity of existing units and promote reasonable levels of amenity;
 - UB-P-25 – sub-division of residential sites;
 - UP-P-26 – converting building to flats;
 - UB-P-29 – holiday-home development.

5.2.2. Appendix 3 and Table 6 of the Plan outline that two car parking spaces are required per dwelling.

5.3. National Guidelines

5.3.1. The following national guidelines are considered relevant in the consideration of this appeal:

- Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007);
- Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities (2018).

5.4. Environmental Impact Assessment - Preliminary Examination

5.4.1. Having regard to the limited nature and scale of the proposed development for retention and the absence of any connectivity to any sensitive location, there is no real likelihood of significant effects on the environment arising from the proposed development for retention. The need for environmental impact assessment can, therefore, be excluded at preliminary examination and a screening determination is not required.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. The principal grounds of appeal submitted by the appellant, who owns and manages the adjacent bar and restaurant, can be summarised as follows:

Principle & Amenities

- the application should be assessed as a dwelling unit and not as a holiday home, given the description of the development outlined in the statutory notices;
- the space is too restricted to accommodate the dwelling and the dwelling fails to meet development standards or provide necessary services;

- proposals are contrary to policy UB-P-26 of the Development Plan relating to the conversion of buildings into apartments, due to the inability to provide an appropriate form of residential amenity and the access arrangements to the parking spaces;
- non-compliance with separation distances and the absence of amenity space;
- overlooking of the Bayview Bar & Restaurant premises;
- the condition restricting use of the building to a holiday home is not appropriate, as this is not an appropriate location for a holiday home;

Traffic & Parking

- traffic hazard arises as vehicles have to reverse onto the public road through a narrow laneway;
- a condition requiring payment of financial contributions is not a deterrent to the development, particularly given the timelines provided for in the associated condition and as this is merely a means for the Planning Authority to acquire additional revenue;

Other Matters

- failure to comply with Building Regulations relating to safe access and emergency escape;
- structural stability concerns arise;
- scope to maintain the building is restricted and there are queries regarding services metering;
- the building was constructed in contravention of previous planning permissions and if this was a fresh application for a house it would be refused.

6.2. Planning Authority Response

- 6.2.1. The Planning Authority responded to the grounds of appeal by stating that the Planning Officer's previous assessments of the proposed development for retention continue to justify their decision to grant retention permission.

6.3. Observations

6.3.1. None received.

6.4. Applicant's Response

6.4.1. The applicant's response to the grounds of appeal can be summarised as follows:

Principle

- the development involves retaining works to convert a shed into small-scale guest accommodation with intermittent guest occupancy;
- planning policy provides flexibility when converting or refurbishing units within town centres, as well as encouraging increased density and better use of urban lands;
- proposals represent an appropriate use of an inner-urban site, providing increased vibrancy to the town centre;
- proposals should be assessed against policy UB-P-25 of the Development Plan, relating to the sub-division of residential sites;
- the residential amenity of the subject dwelling unit is acknowledged in the recent decision and Inspector's report relating to the permitted extension of the appellant's bar and restaurant (ABP Ref. PL05E.301814);

Amenities

- proposals comply with relevant national guidelines for dwelling units and mandatory minimum standards relating to car parking, should not apply;
- amenity space can be provided as a condition of the retention permission;

Traffic & Parking

- the access lane is used on a shared arrangement;
- occupants of the dwelling can park on Main Street, with sufficient public parking elsewhere, thereby avoiding the need for cars to reverse onto the laneway and public road;

Other Matters

- refuse and external fuel stores are not required for the dwelling;

- the boundary wall does not present structural concerns and the building is not attached to this wall;
- the requested development contributions amounting to €19,000 will be paid to the Planning Authority.

7.0 Assessment

7.1. Introduction

7.1.1. I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development are as follows:

- Relevant Planning Policy;
- Design and Layout;
- Other Matters.

7.2. Relevant Planning Policy

7.2.1. The description for the development to be retained refers to 'an existing 1.5 storey dwelling unit with all associated site works and ancillary development'. Under Section 2(1) of the Planning and Development Act 2000, as amended, the definition of a 'house' includes an apartment and the definition of a 'habitable house' is a house which is used as a 'dwelling'. While the Act or the accompanying Regulations do not proceed to define a 'dwelling', a common dictionary definition is 'a building or place of shelter to live in; place of residence; abode; home'. In assessing the planning application, the Planning Authority assessed the development against apartment standards provided in the 'Sustainable Urban Housing: Design Standards for New Apartments -Guidelines for Planning Authorities' (2018). The grounds of appeal assert that the development should be assessed with respect to 'dwelling' standards.

7.2.2. The aforementioned 'New Apartments Guidelines' define an 'apartment' as 'a self-contained residential unit in a multi-unit building with grouped or common access'. I am satisfied that the subject building of this planning appeal does not fit into this definition, as it is a complete standalone own-door detached structure. Therefore,

the proposed development for retention should not be assessed against standards required for new apartment developments. Furthermore, I note that the application documentation submitted to the Planning Authority, refers to the existing and proposed use of the building for 'domestic accommodation' (see application form, question 15). While the response to the grounds of appeal does refer to use of the building for 'small-scale guest accommodation' and 'intermittent guest occupancy', based on the application documentation submitted, including statutory notices, legal definitions and the common dictionary definition referenced above, I am satisfied that the development for retention should be assessed against standards for urban housing. Accordingly, the proposed development for retention is most suitably assessed with regard to policy UB-P-12 of the Donegal County Development Plan 2018-2024 referring to urban housing and the relevant national guidelines for urban housing that are referenced in Section 6.2 of the Development Plan i.e. Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).

7.3. Design & Layout

- 7.3.1. Policy UB-P-12 of the Development Plan requires proposals for urban housing to protect the residential amenity of existing residential units. The appellants' property adjacent to the south and east is a bar and restaurant with extensive servicing and parking area to the rear, while the applicant's property to the west is a two-storey building, Bridge End House, with a vacant commercial (permitted take-away) unit at ground-floor and a two-bedroom apartment at first-floor. Under the most recent planning permission relating to the site (DCC Ref. 09/30585), the area currently encompassing the subject dwelling of this appeal, was intended to serve as a car parking area for the applicant's two-storey property, which faces south onto Main Street. A retaining wall structure separates the subject dwelling from the residential property on extensive grounds to the north. Given the modest scale of the building proposed for retention, the surrounding uses and windows serving the subject dwelling, potential for excessive overlooking or overshadowing does not arise, nor does the development have an overbearing impact on neighbouring properties. Consequently, the subject dwelling does not have a significant impact on the amenities of adjoining properties.

- 7.3.2. Policy UB-P-12 of the Development Plan also requires proposals for urban housing to promote design concepts for new housing that ensures the establishment of reasonable levels of residential amenity for urban housing. In the absence of specific amenity standards for urban housing within the Development Plan, I am satisfied that based on the provisions of the Development Plan the most appropriate standards to be used as guidelines in assessing the proposed development for retention, are those contained in Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities (2007).
- 7.3.3. The 'Quality Housing Guidelines' support the provision of high standards in the design and construction of urban housing including standards for internal living spaces and external amenity areas. Based on details contained in Table 5.1 of these Guidelines, a target gross floor area of 44sq.m is required for a one-bedroom two-person house. While these standards relate to a one-storey house and the proposal relates to a two-storey dwelling, I consider it reasonable to refer to same for guidance purposes in assessing the proposal. The proposed dwelling for retention is stated to comprise a gross floor area of 46sq.m, which is in compliance with the Guidelines.
- 7.3.4. A selection of internal room standards are also outlined in the Guidelines, including minimum living room sizes (11sq.m), aggregate living areas (23sq.m), aggregate bedroom areas (11sq.m) and internal storage areas (2sq.m) for a one-bedroom two-person house. I note that there would be restricted head height in the first-floor area serving the bedroom and storage space, by virtue of the pitch to the roof. The proposed development would largely meet the standards for internal areas, including minimum room widths outlined on page 48 of the Guidelines. However, the aggregate living area measures 16sq.m and falls short of the Guidelines standard by 7sq.m. The Guidelines also outline that the design of housing should provide for well-proportioned rooms with adequate daylight and cross ventilation. While there are two windows on the north elevation serving the living area, these windows face directly onto a retaining wall and, as a result, the sole significant source of natural light to the living area is only available via the west-facing window. Consequently, given the shortfall in aggregate living area and the poor provision of daylight to serve this area, I am not satisfied that the proposed dwelling for retention would not

provide a reasonable quality of residential amenity for future residents, as required under Policy UB-P-12 of the Development Plan.

7.3.5. The Guidelines outline that 'all dwellings should have clearly defined private open space' and that such areas should be screened from public areas. The proposed dwelling for retention is not provided with any private amenity space and the Planning Authority sought to address this by requesting the omission of on-site car parking fronting the dwelling and replacement of this with private amenity space. Given the site context within the town centre and the scale of the proposed development for retention, I am satisfied that dedicated on-site parking would not be necessary and the principle of replacing this parking with amenity space would be acceptable. The area that the Planning Authority requested to be used as private amenity space measures approximately 55sq.m and is overlooked by the ground-floor and first-floor windows on the west elevation of the dwelling. While the space is not directly overlooked by adjoining properties and is reasonably well screened by a timber gate to the laneway, as well as boundary walls and retaining walls, this existing yard area can also be accessed via an external stairs from the two-bedroom first-floor apartment in Bridge End House. As noted this yard space was originally intended to be used as a parking area for Bridge End House under DCC Ref. 09/30290 and 09/30585 and serve the permitted apartment and take-away. Service or refuse collection areas for these adjacent units has not been allocated nor have they been outlined in the previously permitted applications for Bridge End House. Amenity space for the two-bedroom apartment was also not provided. Provision for service and refuse collection areas is constrained along Main Street, the shared lane and the narrow pedestrian access on the north side of Bridge End House. The capacity for this yard area to serve as private amenity space for the dwelling unit is therefore constrained by its interconnectivity with Bridge End House, including communal access from the apartment and the need to provide adequate service areas for the permitted commercial unit in Bridge End House. Accordingly, the proposed dwelling would not be provided with a reasonable standard of private amenity space.

7.3.6. In conclusion, the proposed development would not provide a reasonable level of residential amenity or standard of accommodation for future residents, by virtue of the nature and layout of the private amenity space with access off Bridge End House

and the insufficient aggregate living area, which would be served by inadequate daylight. Consequently, the proposed development would not be compliant with the provisions outlined in Section 6.2 of the Development Plan, Policy UB-P-12 of the Development Plan and the provisions contained in the 'Quality Housing Guidelines'.

7.4. Other Matters

- 7.4.1. In recommending a grant of retention planning permission for the proposed development, the Planning Authority recommended the attachment of a condition restricting use of the subject dwelling, to use as a holiday home. Development standards that are relevant to the assessment of any type of visitor accommodation differ from those that are relevant to the assessment of a residential unit. The differing development standards equate to differing matters to be considered in assessing these respective uses. The aforementioned difference gives expression to the reality that the needs and amenity expectations of visitors using short-term holiday accommodation, differ from the needs and amenity expectations of full-time residents. Thus, differences in the physical specifications and fit outs relevant to the development for these two uses arise. The applicant has explicitly applied for planning permission to retain a building as a 'dwelling', which is a residential use, and not a holiday home, which is a commercial use. To attach a condition to a permission restricting the use of a building to an alternative use that was not expressly sought under an application would be inappropriate, unfair on the public and unreasonable.

8.0 Appropriate Assessment

- 8.1. Having regard to the nature of the proposed development for retention and the location of the site in a serviced urban area and the separation distance to the nearest European site, no Appropriate Assessment issues arise, and it is not considered that the development would be likely to have a significant effect individually or in combination with other plans or projects on a European site.

9.0 Recommendation

- 9.1. I recommend that retention planning permission for the proposed development should be refused for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the layout and design of the proposed development, including the layout of the private amenity space and its interconnectivity with Bridge End House, the insufficient area of aggregate living area and poor provision of daylight serving this internal area, it is considered that the proposed development would constitute a substandard form of development, would be seriously injurious to the residential amenities of future occupants of the dwelling, would be contrary to the provisions of the Quality Housing for Sustainable Communities – Best Practice Guidelines for Delivering Homes Sustaining Communities 2007, which support high standards for urban housing and would be contrary to the provisions of Section 6.2 and Policy UB-P-12 of the Donegal County Development Plan 2018-2024, which require reasonable levels of residential amenity for urban housing. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Colm McLoughlin
Planning Inspector

15th April 2019