



An
Bord
Pleanála

Inspector's Report ABP-307286-20

Development	Change of use of residential apartment to short-term letting accommodation unit
Location	Washington Lodge, Cregg, Rosses Point, County Sligo
Planning Authority	Sligo County Council
Planning Authority Reg. Ref.	PL20/53
Applicant(s)	George and Jo Mullan
Type of Application	Permission
Planning Authority Decision	Grant
Type of Appeal	Third-Party
Appellant(s)	Dr. Caroline Tansey
Observer(s)	None
Date of Site Inspection	31 st August 2020
Inspector	Colm McLoughlin

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1.0 Site Location and Description

- 1.1.** The appeal site is located in the rural townland of Cregg, approximately 2km southeast of Rosses Point and 3.5km northwest of the environs to Sligo. It is bound by the R291 regional road and the coastline to Sligo harbour. The immediate area is characterised by low density rural housing on extensive plots, primarily harnessing views to the south over the harbour. The appellant's neighbouring property is understood to adjoin the appeal site to the southeast.
- 1.2.** The site measures a stated 0.86ha and has two direct vehicular accesses onto the regional road that bounds the northern boundary of the site. Currently on site is a two-storey detached house, known as Washington House, on extensive grounds and a detached two-storey building, known as Washington Lodge, which is a stone-faced outbuilding accommodating an ancillary domestic garage at ground floor and a three-bedroom apartment with an external terrace at first floor. This building fronts onto a courtyard space and features a central clock tower element, as well as front and rear dormer window projections. The house and apartment are understood to be served by an on-site wastewater treatment system. The roadside boundary is formed by a 2m-high stonewall supplemented by an embankment, as well as mature trees and hedgerows. The remainder of the site boundaries are formed by a mix of stonewalls, hedgerows, trees, a slip-way leading southwest into the harbour and the high-tide water mark.

2.0 Proposed Development

- 2.1.** The proposed development comprises the following:
- change of use of a first-floor three-bedroom ancillary apartment with a stated gross floor area of 91sq.m and a south side first-floor terrace, to a short-term letting accommodation unit.

3.0 Planning Authority Decision

3.1. Decision

- 3.1.1. In April 2020, the planning authority issued a notification of a decision to grant permission for the proposed development, subject to four conditions generally of a standard nature, including condition number 2, which required that the apartment not be let for a continuous period exceeding 14 days.

3.2. Planning Authority Reports

3.2.1. Planning Report

The report of the Planning Officer (April 2020) reflects the decision of the planning authority and noted the following:

- given the nature and location of the apartment, its use for short-term letting would not be an ineffective use of existing housing stock and would be suitable, despite policy P-HSH-1 directing holiday accommodation to serviced settlements;
- should permission be granted, it would supersede condition 4 of the permission granted under planning register reference (Reg. Ref.) PL 02/570, which restricted the use of the apartment for purposes incidental to the enjoyment of the host house;
- the apartment is not in a rent-pressure zone, nor would it be suitable for long-term letting;
- planning permission for short-term lettings in the area have generally been located in urban and village locations;
- negative residential amenity impacts, such as noise and disturbance, would not arise, particularly given the 80m separation distance between the apartment and the nearest house;
- no additional loading on the wastewater treatment system would arise;
- the minor associated increase in traffic along the regional road would not impact on traffic safety or flows;

- based on a Stage 1 screening for Appropriate Assessment, no impact on surrounding European sites would arise.

3.2.2. Other Technical Reports

- Environmental Services – further information was requested with respect to the adequacy of the existing wastewater treatment system.

3.3. Prescribed Bodies

- Irish Water – the planning authority report refers to a request from Irish Water that standard comments are attached;
- Department of Culture, Heritage and the Gaeltacht (NPWS) – no response.

3.4. Third-Party Observations

- 3.4.1. One observation was received by the planning authority during consideration of the application from a neighbouring resident. The issues raised in this submission are similar to those raised in the grounds of appeal and are collectively summarised under the heading 'grounds of appeal' below.

4.0 Planning History

4.1. Appeal Site

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

- ABP Ref. PL21.121101 – following a grant of permission and outline permission by the planning authority (Reg. Ref. PL99/936) in March 2001, An Bord Pleanála refused permission for the demolition of 'Washington House' and refused outline permission for a 40-bedroom hotel served by a sewerage treatment plant and associated works, due to the impact of the proposed development on the character of the area, the visual impact arising and the impact on the amenities of a neighbouring house;
- Reg. Ref. PL01/565 – outline planning permission was granted by the planning authority in October 2001 for two houses served by on-site

wastewater treatment systems and two vehicular accesses onto the regional road;

- Reg. Ref. PL02/570 – in November 2002 permission was granted by the planning authority for a two-storey detached house, a two-storey outbuilding with domestic garage at ground floor and an ancillary residential apartment at first floor, a boathouse along the eastern boundary, an on-site wastewater treatment system and two vehicular accesses;
- Reg. Ref. PL04/425 – in July 2004 permission was granted by the planning authority for a covered swimming pool, entrance gates and a revised position for a wastewater treatment system on site.

4.2. Surrounding Sites

4.2.1. Reflective of the rural character of the neighbouring area, recent planning applications in this neighbouring area primarily relate to one-off housing, replacement housing and domestic extensions, including the following application on the adjoining site to the east containing the boathouse originally permitted under Reg. Ref. PL02/570:

- Reg. Ref. PL19/103 – permission was refused by the planning authority in May 2019 for a detached house with an on-site wastewater treatment system and served by the existing east side access/slipway on the appeal site, primarily due to non-compliance with rural housing policy and the visual impact of the development.

5.0 Policy & Context

5.1. Sligo County Development Plan 2017-2023

5.1.1. General planning policies and objectives for the county are outlined in Volume 1 of the Sligo County Development Plan 2017-2023, while more specific local policies and objectives for settlements are outlined in Volume 2 of this Plan. Section 4.4.4 of the Plan addresses rural tourism and recognises that tourism products can generate demand for accommodation in rural areas. Section 5.6.1 of the Development Plan addressing holiday homes and second homes is relevant, including policies directing

holiday homes to specific settlements (P-HSH-1), ensuring an appropriate balance in housing provision (P-HSH-2) and requiring precise details of tenure (P-HSH-3).

Other relevant sections of the Development Plan include:

- Section 7.1.1 – Designated sites for Nature Conservation;
- Section 9.3.2 – Waste Management in Rural Areas;
- Section 13.8.2 – Access onto Regional Roads.

5.2. National Guidelines

5.2.1. The following national guidelines are relevant:

- Guidance Note for Local Authorities for Regulating Short Term Letting (July 2019), Department of Housing, Planning and Local Government;
- Circular Letter PL4/2019 – New Regulations of Short-term Letting;
- Circular Letter PL10/2017 - Guidance on Planning Applications for Short Term Lettings.

5.3. Natural Heritage Designations

5.3.1. The nearest designated European sites to the appeal site, including Special Areas of Conservation (SACs) and Special Protection Areas (SPAs), include Cummeen Strand/Drumcliff Bay SAC (Site Code: 000627) and Cummeen Strand SPA (Site Code: 004035), both of which are located adjoining to the southwest of the site along the harbour.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A third-party appeal was submitted by a resident of Point Piper, a neighbouring house approximately 80m to the southeast of the subject Washington Lodge building. The grounds of appeal can be collectively summarised with the third-party observation, as follows:

- the proposed development would undermine condition number 4 of the previous planning permission Reg. Ref. PL02/570 providing for the subject apartment, as it would introduce a commercial use, whereas the condition required the building to only be used for purposes incidental to the enjoyment of the house and not for commercial purposes;
- the planning authority should have acknowledged in their assessment that the development would breach a condition attached to an existing grant of permission and they were restricted from granting planning permission due to this;
- the original site of Reg. Ref. PL02/570 has been subdivided with separate owners for the subject appeal site and the boathouse site (Reg. Ref. PL19/103) to the east;
- the current use of the adjoining boathouse independent of the host house, Washington House, and not for ancillary residential purposes, is in breach of planning permission condition number 4 of Reg. Ref. PL02/570;
- the planning authority are allowing the property to evolve into a two-owner commercial marine holiday destination and a separate boatyard;
- there are more appropriate areas within the county available for short-term lettings and the subject rural area is not suitable given the increased activity, noise, disturbance, servicing, littering and traffic issues that would arise;
- the proposed development would set precedent allowing for the loss of local housing in favour of short-term commercial letting, thereby departing from the terms of the Development Plan, including zoning provisions, breaching the conditions of a previous permission and altering the historical use of the lands;
- due consideration of the impact of the development on marine and bird life in designated European sites is required;
- the development would not be in keeping with the character, context, planning and environmental provisions of the immediate area;

- the area lacks the necessary services and infrastructure to enable and facilitate the development and to serve visitors that would use the short-term letting accommodation unit;
- the precedent case cited by the applicant's at Bartragh, Enniscrone, County Sligo is not comparable in terms of context, environmental designations and planning history, particularly given the intention to create a marine holiday destination in the subject case.

6.2. Applicants' Response

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

- the site is well screened in an area characterised by housing on large plots situated along the Wild Atlantic Way, a dedicated tourism route, and the proposal simply seeks a viable tourism use for an underutilised property;
- the principle of allowing two houses on the site was established under Reg. Ref. PL01/565, although this outline permission was not enacted;
- the subject apartment has only been intermittently used since the applicants' purchased the property in December 2018;
- the proposed change of use of this 91sq.m apartment to short-term letting would be a modest form of development with the necessary services already in place and a change of use of the apartment is not precluded by the previous permission (Reg. Ref. PL02/570);
- the development description accurately describes that the proposals intend to supersede a previous permission, as confirmed by the planning authority in their report;
- severance of the property would not be a planning matter;
- the planning authority has confirmed via appended correspondence that there is no enforcement action relating to this location, including the boathouse;
- access to the slipway would not be available for patrons of the short-term letting unit and the boathouse is not subject of this planning application;

- based on the stage one appropriate assessment screening conclusion reached by the planning authority, impacts on SACs or SPAs would not arise, as there would be no additional loading on wastewater services and no construction is proposed;
- proposals would not be incongruous given that the built environment would not change, the principle of allowing for a second unit on site under Reg. Ref. PL01/565, the modest nature of the proposals, including the lack of intensification in use of the site, the site context, including the available services, access and tourism infrastructures, and the management of the facility from the host house;
- the loss of the residential unit would not conflict with Government guidelines and circulars and would generally be in accordance with tourism provisions outlined in the Development Plan and the Regional Spatial & Economic Strategy (RSES), particularly given the appeal site's coastal location;
- the appellant's reference to the applicants' claims that development at Bartragh, Enniscrone, County Sligo provides precedent for the subject proposals is incorrect.

6.3. Planning Authority Response

6.3.1. The planning authority's response to the grounds of appeal can be summarised as follows:

- the application would allow for a short-term letting accommodation unit, which would supersede the permission granted under Reg. Ref. PL02/570;
- the boathouse referenced by the appellant is not within the application site boundaries;
- the application does not propose providing a commercial marine holiday destination and a separate boatyard;
- given the location and rural context, the apartment would only be suitable for residential use incidental to the enjoyment of the house on site or for short-term letting;

- the planner's report has previously addressed matters raised in the appeal and a copy of a pre-planning file relating to Ballincar/Cregg/Rosses Point sewerage scheme is appended.

6.4. Observations

6.4.1. None received.

6.5. Further Submissions

6.5.1. Following consultation by An Bord Pleanála with the Department of Culture, Heritage and the Gaeltacht, The Heritage Council, An Chomhairle Ealaíon, Fáilte Ireland and An Taisce, no further submissions were received.

7.0 Assessment

7.1. Introduction

7.1.1. The proposals to change the use of the first-floor of the building from an ancillary apartment to a short-term letting accommodation unit, would not involve external or internal works. Short-term letting is defined in the Planning and Development Act 2000, as amended, as the letting of a house or part of a house for any period not exceeding 14 days, and includes a licence that permits the licensee to enter and reside in the house or part thereof for any such period in consideration of the making by any person (whether or not the licensee) of a payment or payments to the licensor. Consequently, I consider the substantive planning issues arising from the grounds of appeal and in assessing the proposed development relate to whether the proposed use would comply with statutory and other planning provisions and the impact on local amenities and services.

7.2. Proposed Use

7.2.1. The grounds of appeal assert that the subject rural area would not be a suitable location for short-term letting, particularly as condition number 4 of the original permission (Reg. Ref. PL02/570) for the apartment dating from 2002 restricted its use for purposes incidental to the enjoyment of the host house and not for

commercial purposes. In response to the grounds of appeal, the applicants' assert that the proposed use would simply supersede the previous apartment use and that the subject area is appropriate for the development, given the modest nature of the proposals and the location, including coastal context and position along the Wild Atlantic Way. In assessing the proposed development, the Planning Officer recognised that the proposed use of the previously permitted apartment as a short-term letting accommodation unit would provide for an effective use of the property, which would not be in conflict with neighbouring uses and would be suitable relative to local planning policy and national guidelines.

- 7.2.2. From the outset I wish to highlight that an application can be legitimately made for development that is contrary to a condition of a previous permission and such an application should be assessed on its own merits. The fact that the commercial use of the apartment was precluded in the previous permission by means of a condition, is not an automatic reason for refusal. The reason for condition number 4 of Reg. Ref. PL02/570 is stated as 'in the interests of proper planning and development of the area' and this is addressed as a material consideration in my assessment of the subject proposals.
- 7.2.3. The Ministerial 'Guidance Note for Local Authorities for Regulating Short Term Letting' includes a section addressing the determination of applications for short-term letting, including consideration of the nature and characteristics of housing in the area. The Departmental Circular Letter PL4/2019 addresses 'New Regulations of Short-term Letting', which are aimed at bringing back houses and apartments currently used for short-term letting in designated rent-pressure zones, to the traditional long-term rental market. Rent-pressure zones are designated areas intended to moderate the rise in rents and create a stable and sustainable rental market. The subject rural area is not within a rent-pressure zone. Policy P-HSH-1 of the Sligo County Development Plan 2017-2023 directs proposals for holiday homes into existing serviced settlements, including neighbouring Rosses Point. Section 4.4.4 of the Development Plan also recognises that rural tourism can generate spin-offs and demand for additional services, including accommodation.
- 7.2.4. Based on a review of the area, the change of use of the apartment would not lead to an overconcentration of short-term lettings in this area, with the area dominated by one-off housing and the majority of tourist accommodation located within established

settlements. Permitting the proposed development would not set a precedent for the loss of long-term housing, given the current restricted use of the apartment, and its loss would not result in a substantial impact on local housing stock. I am satisfied that the proposed change of use of the upper-floor apartment on site for short-term letting, would not be contrary to the proper planning and sustainable development of the area, given the character of the immediate and surrounding area, the modest scale of the development, the planning history for the site and the prevailing planning policy provisions, as referred to above. Furthermore, the proposed development would not have an adverse impact on the character and mix of uses in the area. Accordingly, planning permission for the proposed development should not be refused for this reason.

- 7.2.5. The grounds of appeal raise concerns regarding the use of the adjacent boathouse structure and a slipway, as well as the severance of the property. I am satisfied that the development description clearly outlines the development subject of this application and while recognising the correspondence submitted by the applicant from the Council's Enforcement Section, any breach of planning conditions would be an enforcement matter falling under the jurisdiction of the planning authority.

7.3. Local Amenities & Services

- 7.3.1. The grounds of appeal assert that the subject proposals would lead to increased activity, noise, disturbance, servicing, littering and traffic in the area. It is also asserted in the grounds of appeal that the services required by the development would not be available in the locality.
- 7.3.2. While the applicant has highlighted that the subject apartment has only been intermittently used since they purchased the property in December 2018, the proposed change of use would not be likely to substantially increase activity in the area given the modest size of the unit, which would not be altered as part of the subject proposals. With no substantive increase in activity and an 80m separation distance to the nearest neighbouring residence, the appellant's house, the potential for the proposed development to result in additional noise and disturbance that would have detrimental impacts on neighbouring residential amenities would not be likely. Furthermore, the accommodation unit is already served by existing services, including vehicular access and a substantial increase in traffic would not arise in the

locality as a result of the development. The existing apartment is connected to an on-site wastewater treatment system and while I recognise that the Environmental Services section of the planning authority has queried the adequacy of the existing system, the proposed development would not place any additional loading on this previously permitted system.

- 7.3.3. In conclusion, I am satisfied that the proposed development would not have a significant impact on the amenities of property in the vicinity and the accommodation unit would not place substantive additional pressure on services in the locality. Accordingly, permission for the proposed development should not be refused for reasons relating to the impact on local amenities and services.

8.0 Appropriate Assessment

- 8.1. Having regard to the minor nature of the proposed development, including the absence of an increased loading on the previously permitted existing wastewater treatment system serving the site and the absence of construction works, the location of the site and the adjoining European sites, 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 planning permission for the proposed development should be granted, subject to conditions, for the reasons and considerations set out below.

10.0 Reasons and Considerations

1. Having regard to the nature and scale of the proposed development, the existing development on site, the pattern of development in the area, the guidance contained in the Guidance Note for Local Authorities for Regulating Short Term Letting prepared by the Department of Housing, Planning and Local Government in July 2019, and the provisions of the Sligo County Development Plan 2017-2023, it is considered that, subject to compliance with

the conditions set out below, the proposed development would constitute an appropriate use in this location, would not adversely impact on the character or the mix of uses in the area, would not result in the substantive loss of long-term residential stock within the area, would not seriously injure the amenities of the area or of property in the vicinity, would be acceptable in terms of traffic safety and convenience and would not be prejudicial to public health. The proposed development would, therefore, 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, except as may otherwise be required in order to comply with the following conditions. Where such conditions require details to be agreed with the planning authority, the developer shall agree such details in writing with the planning authority prior to commencement of development and the development shall be carried out and completed in accordance with the agreed particulars.

Reason: In the interest of clarity.

2. The proposed short-term residential apartment shall be let as a single apartment, and shall not be subdivided, without a separate grant of planning permission.

Reason: To limit the nature of the development to that sought, in the interest of clarity.

3. The developer shall pay to the planning authority a financial contribution in respect of public infrastructure and facilities benefiting development in the area of the planning authority that is provided or intended to be provided by or on behalf of the authority in accordance with the terms of the Development Contribution Scheme made under section 48 of the Planning

and Development Act 2000, as amended. The contribution shall be paid prior to commencement of development or in such phased payments as the planning authority may facilitate and shall be subject to any applicable indexation provisions of the Scheme at the time of payment. Details of the application of the terms of the Scheme shall be agreed between the planning authority and the developer or, in default of such agreement, the matter shall be referred to An Bord Pleanála to determine the proper application of the terms of the Scheme.

Reason: It is a requirement of the Planning and Development Act 2000, as amended, that a condition requiring a contribution in accordance with the Development Contribution Scheme made under section 48 of the Act be applied to the permission.

Colm McLoughlin
Planning Inspector

21st September 2020