



An
Bord
Pleanála

Inspector's Report ABP-313199-22

Development	Change of use from house to short-term holiday let.
Location	11 Marian Park, Dingle, Co. Kerry.
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	22/13
Applicant(s)	Tommy Lambe.
Type of Application	Permission.
Planning Authority Decision	Refuse permission
Type of Appeal	First Party
Appellant(s)	Tommy Lambe.
Observer(s)	None.
Date of Site Inspection	24/06/2022.
Inspector	Auriol Considine

1.0 Site Location and Description

- 1.1. The proposed development site is located to the southeast area of the town of Dingle, Co. Kerry. Access to the site is from Sraid Eoin and the site lies within the well-established residential estate of Marian Park. The town of Dingle sits in the Dingle Peninsula and is an important tourist area in County Kerry. The town provides many amenities, including a number of hotels and tourist accommodation providers. I noted on the date of my site inspection, that No. 2 Marian Park provides budget accommodation.
- 1.2. The houses in the terrace of Marian Park also have access to the rear of the houses via a rear passageway. The houses in the area do not include onsite parking, and such parking is provided adjacent to the open space area. The Dingle GAA Club grounds lie to the south-west of the site while there is a soccer pitch located to the north-west. This area of Dingle is primarily residential in nature with the town centre located to the north-west of the site.
- 1.3. No. 11 Marian Park comprises a mid-terraced two storey house, which has a stated floor area of 75m². The house comprises accommodation over two floors with an open plan living/dining/kitchen and a bedroom located on the ground floor. There are two further bedrooms and a family bathroom located at first floor level. To the rear of the property, a flat roof extension provides for a downstairs wetroom and a laundry room/porch area which provides access to the rear garden. The site has a stated area of 0.0304ha and the house enjoys the benefit of a large garden with a south-eastern orientation.

2.0 Proposed Development

- 2.1. Permission is sought for a change of use from house to short-term holiday let, all at 11 Marian Park, Dingle, Co. Kerry.
- 2.2. The application includes the relevant plans and particulars.

3.0 Planning Authority Decision

3.1. Decision

The Planning Authority decided to refuse permission for the proposed development for the following stated reason:

The proposed change of use of the existing mid-terrace dwelling house in a residential estate to a holiday home for short-term letting would generate additional noise and disturbance and a need for additional car parking. Having regard to the limited parking areas provided for the residents of Marian Park housing development, the proposed development would give rise to traffic congestion, would constitute substandard development which would be seriously injurious to the amenities of the occupants of the development and of residents in the vicinity and would set an unwanted precedent for similar such development in this residential area. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

- 3.2.1. The initial planning Report considered the proposed development in terms of the information submitted and development plan provisions. The report also included sections on AA and EIA. The report considers that the main consideration for the proposed development relates to road safety and traffic issues. The report notes that the overall development of Marian Park provides for approximately 10 car parking spaces to serve the development of 25 houses. The remainder of residents have to park on the access road which is narrow. The report concludes that this, together with the congestion situation on John Street, indicates that there is no capacity for further parking demands, which would be required by the proposed change of use. The report concludes that the proposed change of use is therefore not acceptable.
- 3.2.2. The Planning Officers report recommends that permission be refused, and this recommendation formed the basis for the Planning Authoritys' decision to refuse permission for the proposed change of use.

3.3. Other Technical Reports

None.

3.4. Prescribed Bodies

Irish Water: No objection.

3.5. Third Party Observations

None.

4.0 Planning History

4.1.1. There is no relevant planning history pertaining to the subject site.

4.1.2. The following planning history is associated with the immediate area.

PA ref: 93/1353: Permission granted for the retention of extension to No. 7 Marion Park and the retention of 6 velux roof lights.

PA ref: 12/830: Permission granted for the construction of an extension to the rear of No. 8 Marion Park and the installation of a velux window over the stairwell.

5.0 Policy Context

5.1. National Policy & Guidelines

The following national guidelines are considered relevant:

- Circular Letter PL10/2017 - Guidance on Planning Applications for Short Term Lettings;
- Circular Letter PL 4/2019 – New Regulations of Short-term Letting
- Guidance Note for Local Authorities for Regulating Short-Term Letting (July 2020), Department of Housing, Planning and Local Government;

5.2. Development Plan

Kerry County Development Plan 2015

- 5.2.1. Chapter 3 of the Plan deals with the Settlement Strategy, with Section 3.4 dealing with urban areas. The key aim of the Plan is to support and enhance the role of towns, to protect their diversity, economic vitality and environmental attributes, which are important for the identity and distinctiveness of towns. To create quality urban places where people want to live, work, visit and socialise, by applying the principles of urban design to the planning and management of urban areas.
- 5.2.2. Section 3.3.4 of the Plan deals with Holiday/Second Homes and the following policies are considered relevant:

It is an objective of the Council to:

- **RS-14:** Ensure that holiday / second homes shall be located in established settlements, villages or towns.
- **RS-15:** Ensure that individual holiday home units shall be designed and sited so as not to have an adverse impact on the character of the entire settlement, village, town or natural environment.

- 5.2.3. In addition to the above, Chapter 13 of the Plan deals with Development Management – Standards and Guidelines with Section 13.3 relating to standards for residential development in urban areas.

Corca Dhuibhne Electoral Area Local Area Plan 2021-2027

- 5.2.4. This plan was adopted on the 29th April 2021 and came into effect on 27th May 2021. This LAP replaces the previous Dingle Functional Area Local Area Plan 2012-2018 and seeks to set out a comprehensive local planning framework with clear policies and objectives for the towns and villages in the Electoral Area, including the town of Dingle.
- 5.2.5. The subject site is located on lands zoned R2 Existing Residential however, and I note Objective D-RES-2 which states that it is an objective of the Council to:
- Ensure that residential development on lands zoned proposed residential (R1) shall be for permanent places of residence only.

The Plan provides that such areas are consistent with the Myplan classification system and allows a more positive and flexible response to proposals for the re-use/re-development of underused, derelict land or buildings particularly in the older parts of the main towns. It is therefore the policy of the Planning Authority to protect and improve existing /developed/residential areas and to provide facilities and amenities incidental to those areas. The plan further states however, at Section 2.8.2, that:

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

- 5.2.6. Part A of Section 3 of the LAP sets out the General Development in Settlement policies and objectives, with Section 3.1.1.2 relating to residential development. Of note, Objective WK-R-11 seeks:

to facilitate the change of use of holiday homes to permanent places of residence subject to compliance with development management standards.

- 5.2.7. With regard to holiday Homes / Second Homes, the LAP notes that the Dingle Peninsula has experienced extreme pressure for such houses in recent years and that the 2016 Census figures indicates that the level of holiday homes in some areas far exceeds the local indigenous population. Section 3 Part B of the LAP deals with Dingle.
- 5.2.8. Section 3.2.5.5 of the LAP deals with Tourism and Section 3.2.5.6 of the LAP deals with holiday homes / Airbnb and notes that Dingle has experienced significant demand for holiday home developments within the town in recent years, with more than one third of all dwelling units in the town being holiday homes or second homes. There are currently approximately 180 units listed on Airbnb¹.
- 5.2.9. Section 3.2.7 of the LAP deals with residential development in Dingle noting that there is a large social housing demand there. The Plan notes that there are no

¹ Information from the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, Section 3, Part B, Paragraph 3.2.5.6, Page 68.

significant residential developments permitted in Dingle other than a Part VIII proposal to the north-east of the town. The Plan states that future residential development will only be permitted on appropriately zoned land, prioritising infill sites and brownfield sites to ensure a sustainable and compact urban form and to ensure residents are within easy walking distance of town centre facilities.

- 5.2.10. The subject site is located on lands zoned R2 Existing Residential however, and I note Objective D-RES-2 which states that it is an objective of the Council to:

Ensure that residential development on lands zoned proposed residential (R1) shall be for permanent places of residence only.

- 5.2.11. The Plan provides that such areas are consistent with the Myplan classification system and allows a more positive and flexible response to proposals for the re-use/re-development of underused, derelict land or buildings particularly in the older parts of the main towns. It is therefore the policy of the Planning Authority to protect and improve existing /developed/residential areas and to provide facilities and amenities incidental to those areas. The plan further states however, at Section 2.8.2, that:

It is the policy of the Local Authority to facilitate development that supports in general the primary land use of the surrounding existing built up area.

Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.

Dingle Functional Area Local Area Plan 2012-2018

- 5.2.12. This LAP considered the issue of holiday homes / second homes as a strategic issue, noting that there are an estimated 1,200 holiday and second homes within the functional area. The issue of holiday homes in the settlements also requires consideration from a number of perspectives particularly as holiday homes which are unoccupied for most of the year does not contribute to the development of active, vibrant local communities and acts as a deterrent to local people wishing to live in the villages. In addition, the FALAP also noted that the impact of holiday homes on the Irish language requires to be considered.

5.3. Natural Heritage Designations

The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 1.1km to the north being the Mount Brandon SAC, Site Code 000375. The Dingle Peninsula SPA, Site Code: 004153 lies approximately 2km to the south of the site.

5.4. EIA Screening

- 5.4.1. Schedule 5 Part 2 of the Planning and Development Regulations 2001 (as amended) sets out the class of developments which provide that mandatory EIA is required.

The subject appeal does not relate to a class of development which requires mandatory EIA. The proposed development is not of a scale or nature which would trigger the need for a statutory EIAR, being an application for a change of use within an existing house. It is therefore considered that the development does not fall within any cited class of development in the P&D Regulations and does not require mandatory EIA.

- 5.4.2. In accordance with section 172(1)(b) of the Planning and Development Act 2000 (as amended), EIA is required for applications for developments that are of a class specified in Part 1 or 2 of Schedule 5 of the 2001 Regulations but are sub-threshold where the Board determines that the proposed development is likely to have a significant effect on the environment. For all sub-threshold developments listed in Schedule 5 Part 2, where no EIAR is submitted or EIA determination requested, a screening determination is required to be undertaken by the competent authority unless, on preliminary examination it can be concluded that there is no real likelihood of significant effects on the environment.

- 5.4.3. Having regard to:

- (a) the nature and scale of the development, and
- (b) the location of the development outside of any sensitive location specified in article 109(4)(a)(v)(III) of the Planning and Development Regulations 2001 (as amended),

It is concluded that there is no real likelihood of significant effects on the environment arising from the proposed development. 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. This is a First-Party appeal against the decision of the PA to refuse planning permission for the development. The grounds of appeal are summarised as follows:

- The change of use is not a material change of use.
- The house has been used as a holiday home since 2018.
- For a material change of use to exist, such as to amount to 'development' and require planning permission, it is necessary to meet two conditions:
 - There must be an actual change in how the property is used, and
 - The change must be material.
- The house was not being used as a domestic permanent residence and the only thing that has changed is that there may be a higher turnover of visitors.
- The house has been used as a holiday home since June 2018 and short-term letting would not generate additional noise and disturbance.
- There is a maximum of 5 people allowed to stay at any one time, which is less than when the house is used by the applicant or his family.
- The family still use the property for holidays during the year so the time the house can be rented out is limited.
- There is no need for additional car parking:
 - The applicant is entitled to at least 1 car parking space which is sufficient for the short-term rentals.
 - The applicant is willing to create additional parking in the front garden if needed.
 - The other residents benefit from the use of the family's car parking space when the house is vacant.

- If the house was owner-occupied it is likely that there would be numerous cars there permanently.

The Board will note that the applicants' agent sought to submit further details after the lodging of the initial appeal. This submission was returned to the agent.

6.2. Planning Authority Response

None.

6.3. Observations

None.

7.0 Assessment

7.1. Having undertaken a site visit and having regard to the relevant policies pertaining to the subject site, the nature of existing uses on and in the vicinity of the site, the nature and scale of the proposed development and the nature of existing and permitted development in the immediate vicinity of the site, I consider that the main issues pertaining to the proposed development can be assessed under the following headings:

1. Principle of the development
2. Residential Amenity
3. Other Issues
4. Appropriate Assessment

7.2. Principle of the proposed development.

7.2.1. The proposed development seeks to change the use of an existing residential property from permanent use to short-term letting use at 11 Marian Park, Dingle. The Board will note that the house is located within a terrace of well-established houses, in a mature residential estate, and on lands zoned R2 Existing Residential. On the date of my inspection, I noted that one of the other properties in this estate of 25 houses, is advertised for tourist accommodation. The occupancy of the remaining

homes is not clear, but it would appear that they are primarily in full residential occupation.

- 7.2.2. In terms of national policy and guidance, I note that Departmental Circular Letter PL10/2017 - Guidance on Planning Applications for Short Term Lettings which seeks to protect the existing residential stock in areas of high demand, and Circular Letter PL 4/2019 – New Regulations of Short-term Letting which seeks to return those houses and apartments currently being used for short-term lets back to long-term rentals. The Board will note that the subject house does not lie within a Rent Pressure Zone.
- 7.2.3. The Ministerial ‘Guidance Note for Local Authorities for Regulating Short-Term Letting’ (July 2020) also includes a section addressing the determination of applications for short-term letting and the factors to be considered when deciding on these applications. Section 7 of the document, sets out guidance on determining planning applications, noting that in making a decision on any planning application, a planning authority must consider matters of proper planning and sustainable development of the area, having regard to the provisions of the relevant development plan, relevant Ministerial or Government policies and guidelines, the views of statutory consultees, and the views of members of the public.
- 7.2.4. In addition, planning authorities are required to consider a number of factors in terms of national housing policy to retain/return residential properties to the long-term housing market, the availability of rental property for longer term rental in the area, housing demand in the area, proliferation of short-term letting properties with PP in the area, residential amenity considerations and other matters.
- 7.2.5. The Board will note that in considering the Kerry County Council Core Strategy, I had regard to the fact that Dingle continues to have a large social housing demand, with the LAP indicating that there were 200 open applications for housing for Dingle and the West Kerry area at that time of writing. In addition, there is significant demand for non-social housing, as well as holiday home and tourist accommodation. The Board will note that I undertook a cursory look through a number of on-line property rental sites and would suggest that the number of short-term holiday let properties available in Dingle, in the hundreds, far exceeds the number of properties advertised for long-term rentals, of which I could find none. As such, it might reasonably be

considered that the proposed development, if permitted will have an adverse impact on the provision of long-term housing in Dingle.

- 7.2.6. It is also to be noted that the house the subject of this appeal, is already being advertised for short-term letting on one of the main property websites, and that it is with an agent who appears to manage a number of other short-term lets in the area, and across the country. In this regard, I am concerned that the description of the development is not accurate, and that retention permission should be required as it is clear that the change of use has already been implemented.
- 7.2.7. In terms of the proposed use of the house for short-term tourist accommodation, the Board will note that such uses are 'Open to Consideration' on the R2 zoned lands. I would also note that only R1 residential zoned lands are protected for permanent places of residence only, Objective D-RES-2 of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027 refers. The LAP also seeks to facilitate development that supports the primary land use of the surrounding built up area. Development that does not support or threatens the vitality or integrity of the primary use of these existing built-up areas shall not be permitted.
- 7.2.8. Overall, and having regard to all of the information available, together with the context of the site and my concerns in terms of the description of the development, where it is clear that the change of use has already occurred, I am not satisfied that the principle of the proposed development is acceptable within this well-established, quiet residential estate located off a main street, or in terms of the zoning objective afforded to the site. I will address matters relating to residential amenity further below.

7.3. Residential Amenity

- 7.3.1. The Board will note my comments above in relation to the well-established residential neighbourhood in which No. 11 Marian Park lies. Other than one other property in this estate, which operates a tourism accommodation offer and for which I could not find a grant of planning permission for such use, it would appear that all other houses are well maintained family homes, or possibly second homes. I could not find any other property in this estate for short-term letting other than the property mentioned above, and therefore, I proceed in my assessment on this basis. I would

also note that a number of holiday home specific developments have taken place in Dingle.

- 7.3.2. I note that the Planning Authority considered that a change of use of the mid-terraced house would generate additional noise and disturbance as well as a need for additional car parking. Certainly, short-term tourist letting, by its nature, attracts a transient occupier who do not contribute to the long-term sustainability or integrity of the primary use of this area of Dingle. I further consider that a change of use as proposed would have the potential to generate noise and disturbance, impacting on existing residential amenities of this quiet and mature neighbourhood. In addition, and notwithstanding the comments of the applicant/appellant, such commercial uses generate additional demand for car parking, and therefore, such a use has potential to impact on the existing road network, including the estate roads.
- 7.3.3. With regard to noise and disturbance, I am satisfied that the change of use would give rise to such impacts as to negatively affect the existing residential amenities of this residential estate. In terms of traffic and parking, I would agree with the PA that the development would give rise to additional traffic movements and parking requirements within the estate, where the access road is narrow and parking is already limited. While I note that the appellant has suggested that an on-site parking space could be provided to serve the development within the front garden area, I would consider the provision of same to be significantly impactful in terms of the character and visual amenity of this well-established residential estate. There are 25 houses within the estate, none of which provide for off-street car parking as suggested. To permit such an element for commercial purposes would set an undesirable precedent for similar works and would detract from the visual amenities of the wider area.
- 7.3.4. In this respect, I concur with the Planning Authority and consider that the proposed development, if permitted would significantly impact on the existing residential amenities of the area.

7.4. Other Issues

7.4.1. Third Party Comments

The Board will note the arguments of the appellant that no change of use has occurred. In response, I would note that a change of use has clearly occurred and that the property no longer operates as a permanent residence, or even a second home. The house is offered for short-term lettings on the internet and is now a commercial development. This change, therefore, is both actual and material.

7.4.2. Visual Impacts

The proposed development will not give rise to any external alterations to the existing building. I am therefore satisfied, that no visual impacts arise in this case.

7.4.3. Services

The existing building is currently connected to existing services.

7.4.4. Development Contribution

The subject development is liable to pay development contribution under the Kerry County Council Development Contribution Scheme.

7.5. Appropriate Assessment

7.5.1. The subject site is not located within any designated site. The closest Natura 2000 site lies approximately 1.1km to the north being the Mount Brandon SAC, Site Code 000375. The Dingle Peninsula SPA, Site Code: 004153 lies approximately 2km to the south of the site.

7.5.2. Having regard to the nature and scale of the proposed development, I consider it is reasonable to conclude on the basis of the information available that the proposal individually or in combination with other plans or projects, would not adversely affect the integrity of a Natura 2000 site having regard to the nature and scale of the proposed development and separation distances involved to adjoining Natura 2000 sites. It is also 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.

8.0 Recommendation

- 8.1. It is recommended that the proposed development be refused for the following stated reason.

9.0 Reasons and Considerations

The change of use of the house from residential use to short-term letting, within an established residential area, would have an adverse impact on the existing residential amenities of the area by reason of noise and disturbance, and would give rise to additional traffic movements and parking requirements within the restricted estate roads, where parking is limited. The proposed development, by itself and by the precedent for which a grant of permission would set, would be contrary to the provisions of the Corca Dhuibhne Electoral Area Local Area Plan 2021-2027, which notes that more than one third of all dwelling units in Dingle are holiday homes or second homes and which seeks to ensure affordable housing is provided in order to retain permanent residents. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.

Note:

The Board will note my concerns regarding the description of the development given that the change of use has already occurred. As such, the Board may consider the following reason for refusal:

On the basis of the submissions made in connection with the planning application and appeal, together with the assessment of the Inspector, it appears to the Board that the proposed development relates to a site the use of which is unauthorised for the carrying on of short-term letting of the residential property and that the proposed development would facilitate the consolidation and intensification of this unauthorised use. Accordingly, it is considered that it would be inappropriate for the Board to consider the grant of a permission for the proposed development in such circumstances.

A. Considine
Planning Inspector
6th July, 2022