



An
Bord
Pleanála

Inspector's Report

ABP-314202-22

Development	Retention permission for the change of use from a dwelling house to a short stay self-catering holiday accommodation and associated site development works.
Location	1 Premon Heights, Back Lane, Carlingford, Co Louth.
Planning Authority	Louth County Council
Planning Authority Reg. Ref.	22378
Applicant(s)	Eamon and Marie Enright.
Type of Application	Retention.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Eamon and Marie Enright.
Observer(s)	None
Date of Site Inspection	03 rd of February 2023

Inspector

Karen Hamilton

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1.0 Site Location and Description

- 1.1. The subject site is an end of terrace, two and half storey split-level dwelling to the north of Carlingford Village, Co. Louth. The dwelling fronts onto the R173, the main access road into the northern part of Carlingford Village. There is a road adjoining the site to the north which provides access to the rear of the dwelling and, the rear of other terrace dwellings and five detached dwellings of Premon Heights.
- 1.2. The subject dwelling is the end of terrace of eight which front onto the R172. Parking for the dwellings is off street, along the front of the site and there is additional off-street parking to the rear of the site. The site is currently used for short term holiday accommodation.

2.0 Proposed Development

- 2.1. The proposed development would comprise of the retention permission of a change of use from a dwelling to a short stay self-catering holiday accommodation.

3.0 Planning Authority Decision

3.1. Decision

Decision to refuse permission for two reasons as listed below:

1. The development as a short-term holiday let within a rent pressure zone as designated under the Planning and Development Regulations, 2019 (S.I. No. 235 of 2019) and on lands zoned within the Louth County Development Plan 2021-2027 as Existing Residential whereby the zoning objective is “*To protect and enhance the amenity and character of existing residential communities*” would set an undesirable precedent for other such development in the vicinity and is contrary to the residential zoning objective and to the short term let regulations. The proposed development would, therefore, be contrary to the proper planning and sustainable development of the area.
2. 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 Core Strategy of the Louth County Development Plan 2021-2027, which recognises

residential unit as a scarce resource that needs to be managed in a sustainable manner so that the housing needs of the county are met. The subject dwelling is located on lands with a land use zoning objective “existing residential” where the objective seeks “to protect and enhance the amenity and character of existing residential communities”. The use of a residential unit for short-term letting within an established residential area would be contrary to the proper planning and sustainable development of the area.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The report of the planner reflects the decision to refuse permission and is summarised as follows:

- The site is in a rent pressure zone.
- The site is zoned for residential development.
- The national circulars (PL10/2017 and PL4/2019) provide guidance on the management of housing stock and the legislative requirements in Rent Pressure Zones.
- It is noted that Carlingford is popular for tourism.
- The planning policy for tourism is noted.
- The design and layout of the dwelling is more appropriate for a long-term let.
- The use of the building for short term lets e.g., hens/stags have the potential to have a negative impact on the adjoining residential properties.
- Short-term letting at this location could give rise to anti-social behaviour, noise, and demand for car parking.
- There are already a number short-term lets within Carlingford.
- Policy HOU 27 of the development plan requires the delivery of self-catering accommodation at a scale the settlement can sustain.

3.2.2. Other Technical Reports

Infrastructure Department: No objection subject to conditions.

Water Section: No objection to the proposal.

3.3. Prescribed Bodies

None submitted.

3.4. Third Party Observations

None submitted.

4.0 Planning History

Reg Ref 02/364

Permission granted for revision of the site layout & alterations to townhouses & detached dwelling units.

Reg Ref 001544

Permission granted for alterations to existing planning permission 00/023 to include a change of house type for the 5 detached dwellings.

Reg Ref 00/23

Permission granted for seven townhouses and five detached dwellings.

5.0 Policy Context

5.1. National Guidance

- 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.

- S.1 No. 312/2019- Rent Pressure Zone (Local Electoral Area of Dundalk-Carlingford) Order 2019 ¹

5.2. Louth County Development Plan 2021-2027

5.2.1. Zoning

The site is located on lands zoned as existing residential, where it is an objective “to protect and enhance the amenity and character of existing residential communities”

5.2.2. Rent pressure Zones

- Section 3.2.1 includes reference to those rent pressure zones and the legislative requirements for a person who intend to let their property for short-term letting purposes of the property is located within a rent pressure zone.

5.2.3. Tourism

6.5.1 Hotel, Guest House, and Bed & Breakfast Accommodation

- TOU 26 To direct tourism–based development including Hotels, Guesthouses and B&Bs to Level 1, 2 and 3 Settlements where there is adequate infrastructure to service the development, except where the proposal involves the re-use or diversification of an existing building, subject to normal planning criteria.

Section 6.5.2 relates to Self-catering accommodation

- TOU 27 To facilitate the provision of self-catering accommodation in locations within existing towns and villages, of a scale that the settlement can sustain.

5.2.4. Volume 2 includes the policies and objective for Carlingford.

- CAR 1 To support the role of Carlingford as a local service centre and tourist destination by facilitating development that will contribute to the character and structure of the town and complement and enhance the quality of the town’s attractive built and natural environment.

¹ [S.I. No. 312/2019 - Rent Pressure Zone \(Local Electoral Area Of Dundalk - Carlingford\) Order 2019 \(irishstatutebook.ie\)](http://www.irishstatutebook.ie/eli/2019/si/312/2019-03-12/rent-pressure-zone-local-electoral-area-of-dundalk-carlingford-order-2019)

- CAR 4 To ensure that the amenities of existing residents are considered and protected, particularly in the design, configuration, and operation of any tourism related development
- CAR 9 To seek to support and develop Carlingford as a sustainable tourism hub

5.3. **Natural Heritage Designations**

The site is located c.150m to the east of proposed Natural Heritage Area Carlingford Lough (site code 000452), Carlingford Shore SAC (site code 002306) and c. 500m to the east of Carlingford Lough SPA (site code 004078).

5.4. **EIA Screening**

The proposed development relates to a change of use. This proposal is not within a class of development listed under Schedule 5 of the Planning and Development Regulations 2001 (as amended). The need for a screening determination is therefore not required.

6.0 **The Appeal**

6.1. **Grounds of Appeal**

The grounds of appeal are submitted from the applicant in relation to the refusal by the PA. The appeal is summarised below:

6.1.1. Introduction and background

- The site is located 100m to the north of Carlingford Village.
- The houses are built on a sloping site.
- The property has access to three dedicated parking space.
- The house was purchased by the applicant as a holiday home.
- As the property is idle for some time it has been rented out.

- There are other properties along the terrace which are rented out on a short-term basis/ not occupied or used as holiday homes.
- The property is advertised as an Airbnb and through the Carlingford Adventure centre. Booking is online.

6.1.2. The case for the appeal

- The location of the site within a rent pressure zone should not be the sole reason to disregard sort term lettings.
- Other policies such as the need to enhance Louth's Tourism should be carefully considered.
- The PA did not undertake a full assessment of need to balance the competing demands of protecting existing. The rest used for holiday accommodation or as commercial accommodation e.g., residential amenity, existing housing stock within the RPZ and facilitating appropriate forms of tourism.
- The principle of development is acceptable within the zoning.
- Objective TOU 27 and Section 6.5.2 of the development plan allows self-catering accommodation in towns and villages at a scale the settlement can sustain. The proposal is consistent with this.
- The council relied on two tests (short-term letting and regulation by way of conditions) to assess the proposed.

6.1.3. Test 1- Short-Term letting

- The impact on the residential amenities of adjoining residences is raised.
- There is no material difference between the layout of the family home and the short-term letting.
- The PA report refers to the potential for letting over a 7-day period and the potential to let for large parties. These are not considered objectively.
- The property is more frequently let at the weekends and the busiest period is the summer
- The type of occupants' range.

- The PA report refers to the zoning objective. The report considers the use permissible, but the primary purpose was for long-term let. These are opposite opinions and not supported by government policy.
- Only two of the 13 properties in Permon Heights are permanently occupied.
- A refusal will not secure the use of the dwelling as permanent residence for long-term let.
- There will continue to be other short term lets in Carlingford and Volume 2 of the development plan requires the tourism potential to continue to be supported.
- National and local tourism strategy identify the need to retain tourism in Carlingford.
- Table 1.1 of the county settlement strategy projects a future population growth in Carlingford of only 200 (42 units) which is not excessive.
- There are sufficient zoned lands to accommodate the population growth.
- The PA impact on the adjoining residential amenities (i.e., negative impacts by noise and disturbance) are uncorroborated.
- There have been no complaints from the surrounding area on the applicant.

6.1.4. Test 2- Regulations through conditions.

- The PA report noted that the council would not be able to regulate the short-term letting by way of condition.
- Conditions can be imposed on the use of the site, as per the guidance in the Development Management Guidelines for Planning Authorities (2007).
- Conditions have been included in other granted permissions (20971/ ABP 311695-21) and Reg Ref 21282).
- Each application should be assessed on its own merits.

6.1.5. Proposed parking provision

- The council applied its own car parking rate of 1 and half spaces.

- The PA report incorrectly states there are two spaces although there are indeed three spaces.
- Occupants usually travel together and walk around the village when staying.
- There is also many public parking within a 5m walk of the site.

6.1.6. Appendices

- Copy of house rules
- Copy of refusal for Reg Ref 22/378
- Louth County Development Plan 2021-2027 Policies and Objectives
- Land Use Zoning Map
- Copy of Inspectors Report ABP 311695-21
- Copy of PA officer report Reg Ref 20/971
- Conditions for Reg Ref 21282

6.2. **Applicant Response**

The applicant is the appellant.

6.3. **Planning Authority Response**

The response from the PA is summarised as follows:

- The reasons for refusal are noted.
- The issues raised by the grounds of appeal have been detailed in the planner's report.
- A planning search of the surrounding area (Premon Heights) indicates that there has been no permitted change of use to short-term letting.
- The site is considered as a residential area.
- Having regard to the rent pressure zone and the impact of the short-term letting on the surrounding residential area the proposal is not acceptable.

6.4. Observations

None submitted.

7.0 Assessment

The main issues of the appeal can be dealt with under the following headings:

- Impact on Housing Supply
- Impact on Residential Amenity
- Regulation by Conditions
- Appropriate Assessment

7.1. Impact on Housing Supply

- 7.1.1. The proposed development is for the retention of a change of use of a residential dwelling for short term letting. The site is located within the electoral area of Carlingford- Dundalk, a Rent Pressure Zone (RPZ). RPZ's are areas designated as having the highest housing demand and where the most significant rent pressures apply. Short-term letting is restricted in these areas.
- 7.1.2. Section 3 of the Residential Tenancies (Amendment) Act 2019 sets out the legislative requirements for a person who intends to let their property for the short term if they are located within a Rent Pressure Zone. The "Guidance Note for Local Authorities for Regulating Short-Term Letting" provides guidance on thresholds and scenarios where short-term letting may be permitted. Section 7.2 of this guidance provides exceptional circumstances where short-term letting may be considered which include the need to balance competition demand (residential & tourism) and/or the property is better suited to short-term letting.
- 7.1.3. The grounds of appeal consider the PA have not adequately addressed the need to promote Carlingford as a tourism destination as per the regional and local guidance. It is considered the delivery of short-term letting, i.e., the proposed development, is necessary to support the tourism of Carlingford. It is considered that the national guidance does not preclude all short-term letting in areas designated as RPZ.

- 7.1.4. Policy TOU 27 of the county development plan permits the provision of self-catering accommodations in locations within towns and villages, of a scale that the settlements can sustain. The grounds of appeal do not include an analysis of the availability of other self-catering accommodation, occupancy or ability of Carlingford to sustain self-catering accommodation. Upon site inspection the availability of accommodation in Carlingford Village was evidence, inter alia, hotels B & Bs and from brief investigation into some online platforms, there appears to be large number of short-term rental properties in Carlingford. This aside, the Board will note the overriding national guidance on the protection of current housing stock against use for short-term letting, which I consider takes precedence over the delivery of self-catering accommodation. I do not consider the applicant has submitted any evidence in support of the need to balance self-catering accommodation over the availability of long-term letting, therefore I do not consider there are any exceptional circumstances, as per Section 7.2 of the national guidance to suggest the proposed development is acceptable.
- 7.1.5. The grounds of appeal also note the property was initially purchased as a holiday home. It is argued that the applicant does not stay in the property a great deal and rather than lie idle, the applicant lets it out on a short-term basis. I note Section 7.2 of the national guidance also permits the use of short-term letting in the exceptional circumstance that the property can not be let on a long-term basis. No evidence has been submitted to allow an assessment of these exceptional circumstances and therefore, I do not consider the relaxation of restrictions is applicable at this location.
- 7.1.6. Therefore, having regard to the location of the site within the Carlingford- Dundalk electoral area Rent Pressure Zone (RPZ), which has been identified as an area of highest housing demand and where the most significant rent pressures apply, it is considered the proposed use of the dwelling for short-term letting would negatively impact the delivery of long-term letting properties in Carlingford. I do not consider the retention of the proposed development would constitute an appropriate use at this location and would be contrary to the proper planning and sustainable development of the area.

7.2. Impact on Residential Amenity

Introduction

- 7.2.1. The PA report refers to the potential impact of the proposed development on the residential amenities of those occupants, *inter alia*, anti-social behaviour, noise and demand for parking. The first reason for refusal states that the proposed development would be contrary to the objective of the residential zoning.
- 7.2.2. The grounds of appeal note the PA reference to the impact on the residential amenity, which they consider is unsubstantiated. The grounds of appeal note the use of other dwellings along the terrace, which also provide short-term letting and the varied mix of occupants in the dwelling and they consider the proposal will not have a negative impact on the surrounding area. I have addressed those issues raised in the grounds of appeal separately below.

Car parking

- 7.2.3. The applicant's submission notes the maximum occupancy of the dwelling would be between 9-10 persons. They note that car sharing would be usual, due to the nature of the use. This aside, I do not consider it reasonable to assume that car sharing could be controlled for each short-term letting. Therefore, during full occupation, there is a potential for the proposal to generate a significant demand for parking, generally more akin to a B & B rather than a private dwelling.
- 7.2.4. Whilst the grounds of appeal include a brief analysis of the public parking in the vicinity of the site, upon site inspection, the spaces along the front of the site, adjoining the main road were fully occupied. It was also noted that there was a significant number of residential properties both beside the site and the wider area, many of which had restricted parking due to the restricted plot sizes and location close to the village.
- 7.2.5. Having regard to the potential carparking generated from an occupancy of up to 10 persons and the shared parking within the vicinity of the site, it is reasonable to assume that the proposal would have a negative impact on the availability of parking spaces for residents of those dwelling in the vicinity of the site.

Noise and disturbance

- 7.2.6. In relation to the potential impact from noise and anti-social behaviour the applicant notes that the typical occupants (hill walkers and wedding guests) would be noise compliant. The terms of use of the dwelling state that in the event there are any complaints from noise disturbance the deposits would not be returned. I consider by including this condition, the applicant has raised the potential for noise and disturbance on the surrounding area.
- 7.2.7. As stated above, the dwelling can accommodate up to 10 guests at any one time. This is significantly more than the usual occupancy of a private dwelling. I note the applicant's information also notes the occupancy of the dwelling can also be used for hens/stags. I consider having regard to the potential occupancy and the overall use of the dwelling there is potential for additional noise and disturbance generated.
- 7.2.8. Having regard to the occupancy, the short-term holiday letting and the location of the dwelling adjoining and in the vicinity of other residential properties I consider the use has the potential to have a negative impact on the surrounding area by way of noise disturbance.

Conclusion

- 7.2.9. Therefore, having regard to the potential occupancy in the short-term letting of up to 10 persons, the carparking and activities associated with this level of occupancy, it is reasonable to conclude that there would be a greater demand and impact on the surrounding residential area, in comparison to a private dwelling. In this regard, I consider the proposed short-term letting of the subject site would have a negative impact on those residential properties both adjoining and in the vicinity of the site which would be contrary to the residential zoning of the site which is *"to protect and enhance the amenity and character of existing residential communities"*.

7.3. Regulation by Conditions

- 7.3.1. The PA used two tests to assess the proposed development. The second test related to the regulation of the development by way of condition. The impact of the residential amenity, *inter alia*, parking, and antisocial behaviour is referenced. The PA consider the use of the short term let could not be regulated by way of condition.

- 7.3.2. The grounds of appeal consider these PA comments which refer to regulation of the use by way of conditions are incorrect. They refer to the guidance as set out in the Development Management Guidelines for Planning Authorities (2007) and other similar permitted developments which include conditions on short term lettings.
- 7.3.3. The planning permissions referenced in the grounds of appeal include ABP311695-21 (Reg Ref 20.971) and Reg Ref 21282. I note ABP 311695-21 relates to a property run as a guest house which is located within the village centre zoning, and I consider the characteristics of that proposal differ from the subject site. Reg Ref 21/282 proposed the use of a dwelling for short-term letting, this was assessed by the PA and considered acceptable having regard to the size of cottage. This dwelling was located outside the settlement of Carlingford.
- 7.3.4. Both proposals referenced by the ground of appeal had very different characteristics to the subject site, this aside I consider every proposal should be assessed on its merits and having regard to my assessment above, I consider the principle of retention of a short-term let is not acceptable at this location. Therefore, I consider the imposition of conditions to regulate the proposed development, in this instance, is not relevant.

7.4. Appropriate Assessment

- 7.4.1. The site is located c.150m to the east of Carlingford Shore SAC (site code 002306) and c. 500m to the east of Carlingford Lough SPA (site code 004078). The proposed change of use does not include any works to the existing dwelling,
- 7.4.2. Having regard to nature and scale of the development and the nature of the receiving environment and the distance and lack of connections to the nearest 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.

8.0 Recommendation

- 8.1. I recommend that permission be REFUSED for the reasons and considerations detailed below.

9.0 Reasons and Considerations

Having regard to the nature and scale of the proposed development for retention, the location of the site within a residential area, 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 Louth County Development Plan 2021-2027, in particular the residential zoning objective "*To protect and enhance the amenity and character of existing residential communities*" it is considered that the proposed short-term letting of the dwelling would constitute an inappropriate form of development, would result in the loss of long-term residential stock in an area identified as a Rent Pressure Zone (RPZ) and would seriously injure the residential amenities of the properties in the area. In this regard, the proposed development does not conform with the residential zoning objective on the site and is contrary to the proper planning and sustainable development of the area.

Karen Hamilton
Senior Planning Inspector

08th of February 2023