



An
Bord
Pleanála

Inspector's Report

ABP-314629-22

Development	For material change of use of residential apartment permitted under planning permission ref: P.19/364 to short term residential letting use at the upper floor of Aroi Restaurant.
Location	Friary Street, and Pennyfeather Lane, Kilkenny.
Planning Authority	Kilkenny County Council
Planning Authority Reg. Ref.	22446
Applicant(s)	Bowdale Limited.
Type of Application	Permission.
Planning Authority Decision	Refuse
Type of Appeal	First Party
Appellant(s)	Bowdale Limited
Observer(s)	None
Date of Site Inspection	18 th April 2023.

Inspector

Peter Nelson

1.0 Site Location and Description

1.1. The site is located on Friary Street in Kilkenny City Centre. The subject apartment is located on the first floor of a two-storey building with a restaurant on the ground floor. The two-bedroom apartment has its own door access at street level. There is no private open space associated with the apartment which is located approximately 50m from the junction of Friary Street and High Street. The apartment has a stated floor area of c.120m². This section of Friary Street is mixed use, with retail, a pub/restaurant, guesthouse and residential on upper floors. The site is located within the City Centre Architectural Conservation Area.

2.0 Proposed Development

2.1. The material change of use of a first-floor, two-bedroom apartment to short-term letting use.

3.0 Planning Authority Decision

3.1. Decision

Kilkenny County Council issued a decision to refuse on the 23rd of August 2022 for one reason which related to the insufficient supply of housing in the city centre, which is a rent pressure zone, and it considered this short-term letting facility could militate against the provision of housing with Kilkenny City.

3.2. Planning Authority Reports

3.2.1. Planning Reports

The planning report dated the 19th of August 2022 reflected the decision to refuse. The main points can be summarised as follows:

- The apartment is located in the city centre and within a Rent Pressure zone.
- The apartment is almost double the size of the minimum requirements of the Apartment Guidelines 2020.

- The Planning Authority would look more favourably on the unit being used as a long-term rental.

3.2.2. Other Technical Reports

Roads report dated 15th of August 2022 recommended a development contribution in lieu of parking.

Environment report dated the 17th of August 2022 stated that there was no objection and recommended conditions.

Conservation Officer report dated the 12th of August 2022 had no objection.

3.3. Prescribed Bodies

Irish Water report dated the 28th of July 2022 stated that as there were no sanitary services required there was no objection.

3.4. Third Party Observations

None

4.0 Planning History

- **P.A. Ref:** 21/683

Permission refused on the 4th of October 2021 for the change of use from residential (apartment) use to short-term letting (apartment) use for one reason which related to the insufficient supply of housing in the city centre, which is a rent pressure zone, and it was considered this short-term letting facility could militate against the provision of housing with Kilkenny City.

- **P.A. Ref:** 19/364

Permission granted on the 18th of July 2012 for the change of use from office accommodation to residential/apartment accommodation at the upper floor of 'Aroi' Restaurant.

- **P.A. Ref:** 14/990010

Permission granted on 10th of April 2014 for the change of use of an office/banking hall to casual dining restaurant & café bar and baked goods retail section along with associated signage.

5.0 Policy Context

5.1. Development Plan

The Kilkenny City and County Development Plan 2021-2027 is the operative Development Plan for the area. This plan came into effect on the 15th of October 2021.

5.1.1. Zoning

The site is located within an area zoned 'General Business' the objective of which is to provide for general development.

The site is located within the City Centre Architectural Conservation Area.

5.1.2. Policies and Objectives

- Objective 4D: To monitor the delivery of residential developments throughout the City and County in order to ensure alignment with the NPF, RSES and the Core Strategy and to adjust the approach as necessary where Core Strategy objectives are not being met.
- Objective 4G: To achieve a growth of more than 30% in population for Kilkenny City from 2016 to 2040 to 34,500, subject to capacity analysis and sustainable criteria under Section 3.3 of the RSES,
- 4H: To deliver 30% of that growth within the current built footprint of the city.
- Objective 5C To continue to develop sustainable high-quality tourism, leisure and complementary activities for the City & County with the key stakeholders

enhancing the position of Kilkenny as a Hero site within Ireland's Ancient East branding.

- Housing Objectives C6A To implement the provisions of the Housing Strategy.

5.2. National Guidelines

The following national guidelines are also relevant:

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

5.3. Natural Heritage Designations

None relevant

6.0 The Appeal

6.1. Grounds of Appeal

The main points can be summarised as follows:

- The provision of an apartment for short-term let (guest house/bed and breakfast) is permissible under the General Business zoning.
- Development Plan recognises the need to expand tourist accommodation across all segments in the city.
- Automatically presuming against short-term letting undermines the tourism aims and objectives of the development plan.
- The apartment has a limited potential to meet the need for long-term rental within the Rent Pressure Zone.

- Introducing an exceptionally large two-bed apartment into the long-term rental sector will command a higher rent than smaller two bed apartments which will raise rental expectations for long-term rentals in general.
- The subject property has never been part of the existing housing stock.
- The apartment lacks the basic amenity which are requirements of the New Apartment Guidelines for Planning Authorities.
- The apartment has no accessible private open space, and no bicycle or refuse storage.
- The apartment is single aspect and on a noisy night-time street.

6.2. Planning Authority Response

- No further comments

6.3. Observations

- None

7.0 Assessment

7.1. Having inspected the site and associated documents, the main issues can be assessed under the following headings:

- Principle of the proposed development/short-term letting.
- Appropriate Assessment

7.2. Principle of development, short-term letting.

7.2.1. Permission has been sought for the material change of use of a residential apartment permitted under planning permission ref: 19/364 to short term residential letting.

7.2.2. The appeal site is located on lands that are zoned General Business, the objective of which seeks to provide for general development. This zoning supports a mix of uses including residential, hotels, guest houses and restaurants, pubs and cafes. I

consider the provision of short-term letting is a compatible use that would be acceptable in principle within this zone.

- 7.2.3. The appeal site is located within a Rent Pressure Zone (RPZ). RPZ's are designated areas intended to moderate the rise in rents and create a stable and sustainable rental market. 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.
- 7.2.4. It is noted that planning permission was granted for the change of use from offices to residential and that this permission was acted upon by the development of a residential unit. The applicant states that the fit out of the apartment was completed in June 2021 and that the apartment was never occupied as a residential apartment for permanent residency. The applicant argues that as the apartment has only ever been used for short-term letting, which was unauthorised, the last authorised use was office use.
- 7.2.5. The applicant also argues that as apartment has never formed part of the long-term rental sector, short-term letting will not result in loss of existing housing stock. In the Planning and Development Act 2000 a 'house' is defined as '*a building or part of a building which is being or has been occupied as a dwelling or was provided for use as a dwelling but has not been occupied.*' As in this instance an apartment has been provided for, I considered that the change of use of this apartment would result in an apartment being withdrawn from the available supply of residential accommodation for permanent occupation within a designated "Rent Pressure Zone".
- 7.2.6. The Ministerial 'Guidance Note for Local Authorities for Regulating Short-Term Letting' (July 2019) includes a section addressing the determination of applications for short-term letting and the factors to be considered when deciding on these applications. I have had regard to these guidelines when assessing the proposed change of use.
- 7.2.7. Having regard to a Kilkenny City designation as a 'Rent Pressure Zone' and the limited amount of available accommodation for long-term residential use in the city on on-line property web sites, I consider that currently there is an insufficient supply of properties available for longer-term rental in the city.

- 7.2.8. The site is located in close proximity to the tourist and night-time hub of the city centre and is directly opposite a pub/restaurant with accommodation. There is a high concentration of short-term accommodation options within close proximity of the subject site.
- 7.2.9. The applicant argues that the existing apartment, while having a generous floor area lacks basic amenities such as private amenity space and therefore does not meet the standards of the 'Sustainable Urban Housing: Design Standards for New Apartment Guidelines for Planning Authorities'. The lack of private open space is noted, however given the close proximity of Castle Park, The River Nore walking route and the newly developed Abbey Quarter Riverside Garden Walk, I considered that the apartment is well served for amenity for long-term residential use.
- 7.2.10. The applicant argues that due to the night-time activity along Friary Street that the noise can be a source of nuisance and therefore the apartment was not suitable for permanent residential occupation. It is recognised that this is a night-time area of the city however I considered that given its central location and proximity to amenities the apartment is a suitable location for long-term residential and contributes to the stated target in the Kilkenny City and County Development Plan 2021-2027 of growing the city through the 10-minute city concept.

7.3. Appropriate Assessment

- 7.3.1. Having regard to the of the proposed development, the site location within a built-up area outside of any protected site and the nature of the receiving environment, the availability of public services, and the proximity of the lands in question to the nearest European site, it is my opinion that no appropriate assessment issues arise and that the proposed development would not be likely to have a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

8.0 Recommendation

- 8.1. I recommend that planning permission for the proposed development should be refused for the reason and consideration, as set out below.

9.0 Reason and Consideration

The proposed change of use of a residential apartment to short-term letting would result in the loss of an apartment from the available supply of residential accommodation for permanent occupation within a designated “Rent Pressure Zone” and would contribute to the existing shortage of residential accommodation for permanent occupation within the Kilkenny City. As a result, the proposed development would be contrary to the provisions of the Core Strategy of the Kilkenny City and County Development Plan, 2021-2027 which seeks to secure national and regional policy in meeting the housing needs of the City. The proposed development would therefore be contrary to national, and local policy, and would be to the proper planning and sustainable development of the area.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Peter Nelson
Planning Inspector

21st April 2023