



An
Bord
Pleanála

Inspector's Report

ABP-318130-23

Development

Change of use to from 8 no. existing semi-detached dwelling houses to a commercial holiday village and change of use from 2 no. proposed semi-detached dwelling houses previously granted under 20/51518 to a commercial holiday village, connection to all existing services and all associated works.

Location

Lower Main Street, Ballintra
(Grahamstown Road), Co. Donegal

Planning Authority

Donegal County Council

Planning Authority Reg. Ref.

2351077

Applicant(s)

C & C Property Investment Ltd

Type of Application

Permission

Planning Authority Decision

Refusal

Type of Appeal

First Party -v- Decision

Appellant(s)

C & C Property Investment Ltd

Observer(s)

None

Date of Site Inspection

21st March 2024

Inspector

Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located at the south-western extremity of Ballintra, a village, which lies off that portion of the N15 between Donegal Town to the north and Ballyshannon to the south. This site is bound to the north by Rossnowlagh Road, the L-2255, and to the south-east by Lower Main Street, the L-2175. It is also bound by the Ballintra River along its south-western boundary. Its north-eastern boundary abuts the lengthy rear garden of a street-fronted, two-storey, end of terrace dwelling house on Lower Main Street, and its south-eastern corner wraps around the site of the local health centre. The village itself extends to the north-east along Main Street. It is composed mainly of dwelling houses, several shops and hot food takeaways, a public house, a primary school, and two churches.
- 1.2. The site is amorphous, and its relatively flat surface extends over an area of 0.6 hectares. This site is accessed from Lower Main Street, and it has been developed around a cul-de-sac with a turning head to provide 4 no. pairs of two-storey, semi-detached dwelling houses, with parking to the front and gardens to the rear. These dwelling houses have been laid out in a row on the north-eastern side of the cul-de-sac. Communal open space has been laid out opposite them on the south-western side of the cul-de-sac and beside the Ballintra River.

2.0 Proposed Development

- 2.1. Under the proposal, the use of each of the existing houses (86.45 sqm) would change from a dwelling to commercial holiday accommodation, and the pair of proposed dwelling houses (172.9 sqm), which were permitted under 20/51518, and which would be sited on the northern side of the turning head to the cul-de-sac, would change from a dwelling to commercial holiday accommodation, too.
- 2.2. Essentially, the proposal envisages a change of use of the site from residential use to a commercial holiday village.

3.0 Planning Authority Decision

3.1. Decision

The PA refused the proposal for the following reasons:

1. Policies TOU-P-3 & 4 of the Development Plan are cited. Having regard to the location of the proposed development that is unrelated to any visitor experiences/attractions and that necessitates vehicular travel to avail of such attractions, the development would set an undesirable precedent and it would materially contravene the cited policies.
2. Policy UB-P-24 of the Development Plan is cited. In the absence of information demonstrating compliance with this Policy, to permit the development would be detrimental to regeneration and potential use of existing residential stock in Ballintra and detract from the established resource-related tourism accommodation elsewhere in the County. The cited policy would thereby be materially contravened.

3.2. Planning Authority Reports

3.2.1. Planning Reports

See reasons for refusal.

3.2.2. Other Technical Reports

Donegal County Council

- Chief Fire Officer: Advises that a fire safety certificate has been granted for guest houses.
- Building Control: Standard advice.

3.3. Prescribed Bodies

None

3.4. Third Party Observations

None

4.0 Planning History

- 04/1129: Erection of 16 no. two-storey houses, including new vehicular entrance, public lighting, connection to public sewer and all associated site works: Permitted, only 8 no. houses built.
- 20/51518: Construction of 2 no. semi-detached dwellings and all associated site works including connection to public services: Permitted.
- Pre-application consultation on 12th July 2023.

5.0 Policy Context

5.1. Development Plan

Under the County Donegal Development Plan 2018 – 2024 (CDP), the site is shown as lying within the settlement framework boundary of Ballintra, a Layer 3 rural town.

Under the proposal, a commercial holiday village would be established on the site. Accordingly, the following objectives and policies are of relevance:

TOU-O-5: To facilitate the development of ancillary tourism attractions (e.g. restaurants, cafes, bars, and tourist accommodation) in a manner consistent with the brand identity of the Wild Atlantic Way.

TOU-O-14: To facilitate new tourism accommodation in a manner which sustainably protects and harnesses the tourism resource on which it depends.

TOU-P-3: It is a policy of the Council to facilitate tourism developments which support the County's core tourism product by providing visual and activity based visitor experiences/attractions which are consistent with the brand identity of the Wild Atlantic Way and other similar initiatives and are in accordance with the policies of this Plan.

TOU-P-4: It is a policy of the Council to facilitate the development of ancillary tourism attractions (e.g. restaurants, cafes, bars, and tourist accommodation) in a manner consistent with the brand identity of the Wild Atlantic Way and other similar initiatives and in accordance with the policies of this Plan.

TOU-P-20: It is a policy of the Council that all development proposals for the creation of new, or the extension of existing Tourist Developments (including Resource Related/Activity based Tourism Product Developments, Campervan/Motorhomes and Touring Caravan Stopover Sites, Hotels, Guest Houses, Tourism Hostels, Holiday Resorts, Mobile Homes/Static Caravan Parks Camping Sites, and other Tourist Related Developments) shall comply with the following criteria:

- a) The location, siting and design of the development (including associated infrastructure and landscaping arrangements) is of a high quality, integrates successfully with, and does not, either individually or in combination with existing and permitted developments, have an adverse impact on; the scenic quality, visual amenity, rural character, streetscape, vernacular character or built environment of the area.*
- b) The development is not located within sensitive/fragile physical environments (e.g. sand dunes, machairs, etc.), and provides adequate means of protection of such environments by means of fencing and the provision of raised/fenced walkways across beach and sand dune areas.*
- c) The development is significantly setback from, and adequately screened from, coastlines, shorelines and river banks.*
- d) The development will not detract from the visual setting of the coastline or be visually obtrusive from key points along the coastline.*
- e) Appropriate boundary treatment and means of enclosure are provided and any areas of outside storage proposed are adequately screened from public view.*
- f) It will not have a significant impact on adjacent residential amenities.*
- g) There is an adequate means of water supply.*
- h) There is existing or imminent programmed capacity in the public wastewater infrastructure for developments within urban areas or suitable on-site effluent treatment facilities to EPA standards can be provided in rural areas.*
- i) The development will not cause a traffic hazard, and the existing road network can safely handle any extra vehicular traffic generated by the proposed development.*
- j) Adequate parking provision, access and manoeuvring arrangements (including for touring coaches and motorhomes), and servicing areas are provided in line with best practice, and the technical standards and policies of this plan.*
- k) The layout of the development provides for a high level of, and prioritises, pedestrian permeability and access.*

l) The development does not create a noise nuisance and will not cause any significant environmental emissions.

m) The development will not have an adverse impact on the built, scenic, or natural heritage of the area including structures on the RPS/NIAH and Natura 2000 sites.

n) The development is not located in an area at flood risk and/or will not cause or exacerbate flooding.

o) The development will not compromise the water quality of water bodies with River Basin Districts designated under the Water Framework Directive or hinder the programme of measures contained within any associated River Basin Management Plan.

Additionally, the following urban housing policies are of relevance:

UB-P-24: It is a policy of the Council that Multiple and single holiday home units will be considered within settlement framework areas provided that the proposed development would not result in the total number of existing and permitted holiday homes within the settlement framework area exceeding 20% of the total existing and permitted housing stock. Any application will also be assessed in the light of all relevant material planning considerations including land-use zonings, the availability of infrastructure, relevant policies of the County Development Plan and other regional and national guidance/policies and relevant environmental designations. Such developments must have regard to the scale and form of the settlement.

UB-P-29: It is a policy of the Council that holiday home development will be considered within the settlement framework areas without the application of a restriction in terms of the balance between holiday homes and permanent homes (policy UB-P-24), subject to environmental and heritage designations and amenity considerations and where the applicant can demonstrate that the site is a brownfield site within the urban fabric of a settlement framework and its development for holiday home purposes is of a size and scale that would not be detrimental to the character of the settlement. A brownfield site is one that has been previously built upon. It excludes parks, recreation grounds, private or public open space, allotments, forestry lands/buildings agricultural lands and land where the remains of the previous use have blended into the landscape, or have been superseded by land use zonings or lands of conservation value or amenity use.

5.2. Natural Heritage Designations

- Donegal Bay (Murvagh) pNHA & SAC (000133)

- Donegal Bay SPA (004151)
- Ballintra pNHA & SAC (000115)

5.3. EIA Screening

See Appendix 1.

6.0 The Appeal

6.1. Grounds of Appeal

The applicant begins by citing national and regional policies, which support and promote tourism. Failte Ireland's 2015 report on tourism in the NW, including Donegal, notes its under-performance and the potential to attract greater numbers of visitors. Under the CDP, the opportunity presented by the Wild Atlantic Way is recognised. Objective TOU-O-14 and Policies TOU-P-3, 4 & 20 are cited.

The applicant proceeds to critique the two reasons for refusal.

The first reason

- The case planner acknowledges that there are no CDP policies that directly address the creation of a holiday village. Policies TOU-P-3 & 4 support tourism developments. These policies are cited in the PA's first reason for refusal. However, they do not refer to proximity to visitor attractions or the need for pedestrian access to them. Indeed, due to their remoteness, the County's premier visitor attractions are not normally accessed on foot. Furthermore, they tend to be located in areas of especially high scenic amenity, where the provision of tourism accommodation would be inappropriate. Paragraph 1.7 of the Development Plan Guidelines is cited. This Paragraph advises that policies should be "as concise as possible", and so they should be clear and specific. Neither of the Policies cited set out clearly the need for proximity or pedestrian access, and so the PA should not read these requirements into them.

- While the applicant does not dismiss the economic benefit of the proposal to Ballintra, such benefit is not cited as a requirement in the CDP's tourism policies.
- The landscape and visual impacts of the proposal would be acceptable and in conformity with Policy TOU-P-20 of the CDP.
- The proposal would be of wider benefit to the County as it would expand the range of tourism accommodation available along the WAW.
- The proposal is for a site on the edge of Ballintra, where the orientation of the houses is such that existing residential properties would not be overlooked.

The second reason

- Policy UB-P-24 restricts the proportion of holiday homes in a settlement to 20% of the housing stock. Its relevance is to privately owned holiday homes rather than the proposed commercial holiday village, within which individual houses would not be sold-off separately. The applicant invites a condition that would require the village to be under its control.
- Notwithstanding the previous paragraph, the applicant has undertaken a land use survey of Ballintra, which indicates that the existing housing stock, including the applicant's 8 houses, totals 108. None of these are used as holiday homes, and so the proposed 10 holiday homes would come within the 20% cap cited above.
- The second reason refers to how the proposal would be "detrimental to regeneration and potential use of existing residential housing stock in Ballintra and detract from established resource-related tourism accommodation elsewhere in the County." This reference is not present in Policy UB-P-24, and the applicant fails to understand its inclusion within this reason.

6.2. Planning Authority Response

The PA notes the applicant's grounds of appeal. It relies on the case planner's report to present its position.

6.3. Observations

None

6.4. Further Responses

None

7.0 Assessment

7.1. I have reviewed the proposal in the light of the County Donegal Development Plan 2018 – 2024, relevant planning history, the submissions of the parties, and my own site visit. Accordingly, I consider that this application/appeal should be assessed under the following headings:

- (i) Description of the proposal,
- (ii) Development Plan policy,
- (iii) Amenity, and
- (iv) Appropriate Assessment.

(i) Description of the proposal

7.2. The description of the proposal refers to a change of use of both the existing houses on the site and the proposed houses, which are the subject of an extant planning permission. During my site visit, I observed that the existing houses do not appear to have been occupied yet, and so their use as dwellings has not commenced. I also observed that the proposed houses have yet to be built.

7.3. As the description of the proposal refers to a change of use, the implication is that the use being changed from exists. However, this does not appear to be the case, as the existing houses have not been occupied. Nevertheless, under Section 2(1) of the Planning and Development Act, the definition of a habitable house includes “a house which was provided as a dwelling but has not been occupied.” On the basis of this definition, I consider that an *in-situ* house intended for use as a dwelling can be the subject of a change of use, even though it has not been used as a dwelling. Thus, the existing houses on the site can be the subject of the current change of use only application. By contrast, the proposed houses are not *in-situ* and so they should be

the subject of a separate application whereby permission is sought for their construction as commercial holiday accommodation.

- 7.4. I conclude that the description of the proposal is appropriate for the existing houses on the site. However, it is not appropriate for the proposed houses, which should be omitted by condition from any planning permission and, which should instead be the subject of a separate planning application for their construction for their now intended use as commercial holiday accommodation.

(ii) Development Plan policy

- 7.5. Under the CDP, the site lies within the settlement framework boundary of Ballintra, a Layer 3 rural town. It has been developed under the permission granted to 04/1129 to provide 4 no. pairs of semi-detached dwelling houses, which the applicant now wants to repurpose as a commercial holiday village.
- 7.6. Under chapter 9 of the CDP, tourism is addressed, including different types of tourist accommodation. The PA's case planner accepts that the specific type of tourist accommodation proposed, i.e., the use of a small edge of village housing scheme to provide holiday accommodation, is not directly addressed by the objectives and policies set out in chapter 9.
- 7.7. At a general level, TOU-O-14 undertakes to facilitate new tourism accommodation in a manner which sustainably protects and harnesses the tourism resource on which it depends, and TOU-O-5 cites tourism accommodation as an example of ancillary development to the Wild Atlantic Way (WAW), which will be facilitated.
- 7.8. The PA's first reason for refusal cites TOU-P-3 & 4, which, variously, undertake to facilitate new visitor attractions which support, e.g., the WAW, and ancillary development, such as tourism accommodation, which supports the WAW. The PA critiques the proposal, due to its location, which is unrelated to any visitor attractions, and which necessitates vehicular travel to avail of such attractions.
- 7.9. The applicant has responded to this critique by pointing out that many of the County's visitor attractions are in especially scenic locations, where it would be inappropriate to provide accommodation, and where access by car is for many the only practical option.

- 7.10. As originally submitted, the application is accompanied by an “Additional letter portraying the need for a holiday village in Ballintra, Co. Donegal.” This letter lists a range of visitor attractions and associated travel times within the surrounding and wider areas of Ballintra and further afield.
- 7.11. During my site visit, I observed that, while the village itself has no recognisable visitor attractions, the junction on the N15, which serves the town, also serves Rossnowlagh (6.7km away), where there is a discovery point on the WAW. Under Table 9.1 of the CDP potential greenway developments are listed. One of these is from Donegal Town to Bundoran, and it would utilise the former route of the Great Northern Railway, which runs to the west of the forementioned junction. Accordingly, the site is conveniently placed for the WAW, and in the future it would be conveniently placed for a new greenway. Its repurposing as a “holiday village” would thus be justified, in principle, under the CDP’s TOU-O-14 & 5 and TOU-P-4, as it would be supportive of the WAW. (I do not consider that TOU-P-3 is relevant to the proposal as it would not be a visitor attraction in its own right).
- 7.12. Turning to the CDP’s more specific locational policies for different types of tourist accommodation, while none of these are directly applicable, they are by analogy instructive. Thus, TOU-P-13 & 14 undertake to consider new guest houses and hostels in urban areas, and TOU-P-17 undertakes to consider new caravan parks in urban areas, provided they are, amongst other things, within safe walking distance of local services and facilities. The site lies within the village of Ballintra, and existing footpaths along Lower Main Street ensure that pedestrians can access local services and facilities safely. Accordingly, the proposal would be consistent with these policies.
- 7.13. The PA’s second reason for refusal cites UB-P-24, which sets a cap of 20% upon a settlement’s housing stock that may be in use as either single or multiple holiday home units. The proposal is critiqued on the basis that the applicant has not demonstrated that this proposal would comply with this policy, and so it may be detrimental to regeneration and potential use of existing residential stock in Ballintra and detract from the established resource-related tourism accommodation elsewhere in the County.

- 7.14. The applicant has responded to the PA's critique by, at the appeal stage, undertaking a survey of Ballintra, which establishes that inclusive of the houses on the site, there are 108 houses in the village. As none of the pre-existing houses appear to be holiday homes, the applicant concludes that the proposed addition of 10 such homes would come within the above cited cap of 20% of the housing stock. Compliance with UB-P-24 would thereby be achieved.
- 7.15. While the wording of both of the PA's reasons for refusal contends that the CDP would be materially contravened by the proposal, my discussion of this proposal set out above leads me to conclude that no material contravention would arise. Accordingly, there is no need for the Board to consider the provisions of Section 37(2) of the Planning and Development Act, 2000 (as amended).
- 7.16. I conclude that the proposal would either comply with or be consistent with CDP objectives and policies, and so it would be acceptable in principle.

(iii) Amenity

- 7.17. The proposed change of use would see the existing houses on the site being used as holiday accommodation rather than as dwellings. No physical changes to these houses would ensue, only their use would change from that originally envisaged to that now proposed.
- 7.18. The applicant outlines that, under its proposal, the holiday accommodation would be the subject of short-term letting to visitors attracted by the WAW. It undertakes to retain control of the developed site, and so individual houses would not be sold off separately. It invites the Board to attach a condition requiring that it remains in control of the "holiday village".
- 7.19. I welcome the applicant's undertaking to retain control of the developed site. I consider that the Board should, as invited, attach a condition requiring such control, along with another one that would outline how the site would be managed in practise, i.e., the "house rules" that visitors would be subject to. These measures would ensure that the proposed use would be capable of being operated in a manner compatible with the residential amenities of the area.
- 7.20. I conclude that, subject to conditions, the proposal would be compatible with the residential amenities of the area.

(iv) Appropriate Assessment

- 7.21. The site is not in or beside a European site. The nearest such site is the Ballintra SAC (000115), which lies 650m to the south south-east. However, there is no hydrological link between the application site and this European Site. The Ballintra River flows past the site and, eventually, into Donegal Bay, which is designated Donegal Bay (Murvagh) SAC (000133) and Donegal Bay SPA (004151). This River affords a hydrological link between the application site and these Sites.
- 7.22. The current application is for a change of use only of existing and proposed houses. (In the light of the discussion under the first heading of my planning assessment, I consider that this change of use application is appropriate for the existing as distinct from the proposed houses). Under the proposal, no new physical works would arise, and so no appropriate assessment issues would arise.

8.0 Recommendation

That permission be granted.

9.0 Reasons and Considerations

Having regard to the County Donegal Development Plan 2018 – 2024 and the planning history of the site, it is considered that the proposed repurposing of the existing houses on the site as holiday accommodation would accord with relevant tourism objectives and policies of the Development Plan. Subject to conditions concerning the future control and management of the developed site, the proposed holiday accommodation would be compatible with the residential amenities of the area. No appropriate assessment issues would arise. The proposed repurposing of the existing houses on the site would accord with the proper planning and sustainable development of the area.

10.0 Conditions

1.	The development shall be carried out and completed in accordance with the plans and particulars lodged with the application, as amended by the further plans and particulars received by An Bord Pleanála on the 2 nd day
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	<p>of October 2023, 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.</p> <p>Reason: In the interest of clarity.</p>
2.	<p>The change of use from 2 no. proposed semi-detached dwelling houses previously granted under 20/51518 to a commercial holiday village shall be omitted from the permission hereby granted.</p> <p>Reason: These 2 no. dwelling houses remain unbuilt, and so any change of use needs to be the subject of a separate application for their construction for use as a commercial holiday village.</p>
3.	<p>The existing houses comprised in the commercial holiday village shall not be sold off separately. The applicant, or its successor in title, shall control this commercial holiday village for short-term lettings to visitors.</p> <p>Reason: In the interest of clarity, in order to safeguard the residential amenities of the area, and to ensure orderly development.</p>
4.	<p>Prior to the commencement of the use of the existing houses as a commercial holiday village, the applicant, or its successor in title, shall submit to the planning authority a management plan for this holiday village, which shall set out the obligations upon visitors who short-term let. Prior to the commencement of the use of the existing houses as a commercial holiday village, the planning authority shall agree in writing to the management plan.</p> <p>Reason: In order to safeguard the residential amenities of the area.</p>

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.

Hugh D. Morrison
Planning Inspector

4th April 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-318130-23		
Proposed Development Summary	Change of use to from 8 no. existing semi-detached dwelling houses to a commercial holiday village and change of use from 2 no. proposed semi-detached dwelling houses previously granted under 20/51518 to a commercial holiday village, connection to all existing services and all associated works.		
Development Address	Lower Main Street, Ballintra (Grahamstown Road), Co. Donegal		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	
		No	X No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes		Class.....	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
			Conclusion
No		N/A	No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____ **Date:** _____