



An
Bord
Pleanála

Inspector's Report

ABP-321681-25

Development	Retention of ground floor apartment as constructed.
Location	Apartment No. 1, Blasket House, Goat Street, Dingle, Co. Kerry
Planning Authority	Kerry County Council
Planning Authority Reg. Ref.	24316
Applicant(s)	Maurice McCarthy
Type of Application	Retention Permission
Planning Authority Decision	Refuse Retention Permission
Type of Appeal	First Party
Appellant(s)	Maurice McCarthy
Observer(s)	None
Date of Site Inspection	14 th March 2025
Inspector	Ronan O'Connor

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Appendix 1 – Form 1: EIA Pre-Screening	

1.0 Site Location and Description

- 1.1. The site is located within an existing building on Goat Street, Dingle. There is a commercial unit on the ground floor of the building with car parking to the rear. The stated site area is 0.89 Ha.

2.0 Proposed Development

- 2.1. Retention of ground floor apartment as constructed.

3.0 Planning Authority Decision

3.1. Decision

Refuse permission for 1 no. reason as below:

1. It is considered that the proposed development involving the retention of a three-bedroom apartment with two bedrooms each lacking a window would constitute substandard residential development which would seriously injure the residential amenities of the occupants of the apartment and set an undesirable precedent for similar type of substandard development in the 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. Planning Reports

Planner's Report (19/12/24)

- Notes permission was granted for 8 no. 8 bed apartments and retail unit/public open space was to be provided/as not been carried out.
- Apartment is now 3-bed as opposed to 2-bed as permitted.
- Clarification is required in relation to private amenity space.
- Parking space to be identified.

3.2.2. Further information in relation to the following issues was recommended:

- Revised site layout plan showing extend of private amenity space serving Apt 1.
- Comment on provision of parking and provision of public open space as required by previous conditions.
- Clarify number of apartments within the building/number of bedrooms within each apartment.
- Identify car parking spaces for each apartment.
- Clarify reason for the current application being submitted.

3.2.3. Further Information was received 28/11/24.

- The Planning Report expressed satisfaction with all of the issues raised in the FI request save for the internal layout of the 'as constructed' apartment which contains 3 no. bedrooms, 2 of which are situated at the back of the apartment and have no windows.
- Noted that this is a significant departure from the permitted development on site where permission had been granted for a 2-bedroom apartment with 2 no. bedrooms having their own windows facing onto the laneway.
- Considered development to be substandard
- Also raises fire safety and egress issues
- Development is not in accordance with Apartment Design Standards
- Refusal of permission was recommended.

3.2.4. Other Technical Reports

Environmental Assessment Unit (report dated 23/08/2024) – AA would not have been required for the development concerned/Would not have required either an EIA or a determination as to whether an Environmental Impact Assessment would have been required.

3.3. Prescribed Bodies

- 3.3.1. TII (Report dated 19/08/2024) – Requests that the PA have regard to the provisions of official policy for development proposals.

3.4. Third Party Observations

- 3.4.1. None.

4.0 Planning History

99/3289 [decision date 17/01/2000] Grant permission - Erect retail unit and 8 no. two-bedroomed apartments complete with on-site car parking and all services and associated ancillary site works.

98/2769 [decision date 25/02/1999] Grant permission - Erect a retail unit and eight apartments complete with on-site car parking and associated site development works

98/1031 [decision date 07/07/1998] Grant permission - Erect a retail unit and six (6) no. apartments complete with car-parking to rear of same

5.0 Policy Context

5.1. Development Plan

Kerry County Development Plan 2022-2028

The site is located on land zoned M2 Town Centre in the Corca Dhuibhne Electoral Local Area Plan 2021-2027.

Objective KCDP 4-40 Ensure that developments have regard to the Ministerial Guidelines, Sustainable Urban Housing: Design Standards for New Apartments - Guidelines for Planning Authorities the DHPLG (2020), Urban Development and Building Heights – Guidelines for Planning Authorities DHPLG (2018) and Guidelines for Planning Authorities on Sustainable Residential Development in Urban Areas (Cities, Towns & Villages) DEHLG (2009)

5.2. Section 28 Guidance

Sustainable Urban Housing: Design Standards for New Apartments Guidelines for
Planning Authorities, December 2022

5.3. Natural Heritage Designations

- 5.3.1. The nearest designated sites are the Mount Brandon SAC (Site Code 000375) and Mount Brandon pNHA (Site Code 000375) which are both located c600m to the north-west of the site.

5.4. EIA Screening

- 5.4.1. See completed Form 2 on file. Having regard to the nature, size and location of the development proposed for retention, and to the criteria set out in Schedule 7 of the Regulations, I have concluded at preliminary examination that there is no real likelihood of significant effects on the environment arising from development proposed for retention. EIA, therefore, is not required.

5.5. Appropriate Assessment

- 5.5.1. Having regard to the minor nature and scale of the development proposed for retention, the site location outside of any protected site, the nature of the receiving environment and the proximity of the lands in question to the nearest European Site (Mount Brandon SAC (Site Code 000375) which is located c600m to the north-west of the site), it is my opinion that no Appropriate Assessment issues arise and that the development proposed for retention would not be likely to have had a significant effect, either individually or in combination with other plans or projects, on any Natura 2000 site.

6.0 The Appeal

6.1. Grounds of Appeal

6.1.1. A first-party appeal against the decision of the Planning Authority to refuse permission was received on 16th January 2025. The grounds of appeal are summarised below.

- Works only entailed minor adjustments to the internal layout of the existing apartment without external changes to the elevations.
- Modifications were a reaction to the changing circumstances of the McCarthy family.
- Works are to a high standard.
- Family are happy that the bedrooms are not compromised in any way.
- Additional bedroom space to accommodate their children.
- Have no alternative living accommodation.
- Were unaware of the need to apply for planning permission.
- Bedrooms have internal windows that allow natural light to percolate through the apartment from the exiting external windows.
- No specific requirements within the building regulations to have an external window to the bedroom.
- Reconfiguration of the internal space within the apartment involved minor adjustments.
- More sleeping area required by the family.
- Has not impact the residential amenity of neighbouring properties.
- Changes are minor given the scale of the permitted development
- Has not created traffic or transport issue.
- No other property owners within the complex had issues with the project.
- No legislation or direction within development standards or within the County Development Plan not allowing this type of development.

- Precedent is not a concern as this is the only apartment where this type of development can happen/was the only one-bedroom apartment within the overall complex.

6.2. Planning Authority Response

6.2.1. None received.

6.3. Observations

6.3.1. None received.

7.0 Assessment

7.1. The planning issue of relevance here is as follows:

- Residential Standards (including daylight, sunlight, aspect)
- Minimum Unit Size (new issue)
- Other Issues

7.2. Residential Standards (including daylight, sunlight, aspect)

- 7.2.1. Kerry County Council (KCC) have refused retention permission for 1 no. reason relating to residential standards and substandard development, resulting from a lack of a window to two of the bedrooms within the reconfigured 3-bedroom apartment.
- 7.2.2. From an examination of the file, including the planning history documentation, I would note that the 99/3289 permission would appear to be the permission that has been implemented (for 8 no. 2-bed apartments and a retail unit), and in relation to the subject unit under consideration here, the permitted floor plans on file would appear to indicate a 2-bed apartment with all internal rooms served by an external window.
- 7.2.3. The development now proposed for retention (as shown on Drg. No. McCarthy/01/02) indicates a 3-bed unit with 2 no. bedrooms not directly served by a window (Bedroom 2 and Bedroom 3).

- 7.2.4. I would have concerns in relation to the provision of daylight and sunlight for same. The ‘Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities, July 2023’ (“Design Standards for New Apartments”) note that the provision of acceptable levels of natural light is an important planning consideration as it contributes to the liveability and amenity enjoyed by apartment residents. I would note that Objective KCDP 4-40 of the Kerry County Development Plan states that regard will be had to the Design Standards when assessing development proposals.
- 7.2.5. I would note that no assessment of Daylight or Sunlight levels has been submitted. However, this would not normally be expected for a development of this scale. In the appeal submission, the appellant has set out that the bedrooms receive indirect daylight from internal windows within the apartment unit.
- 7.2.6. Notwithstanding, I would have concern in relation to the potential levels of daylight and sunlight to the 2 no. bedrooms to the rear of the unit, noting the lack of windows to each of the rooms, the location of the bedrooms to the rear of the unit and the ground floor location of the apartment, and the overhanging balconies above the unit all of which would have a material impact on the level of daylight received to the bedrooms. The windows to the unit also face in a north-westerly direction, which would also limit sunlight levels received internally. As noted above, the appellant highlights that the 2 no. bedrooms in question are served by internal windows. The floor plan submitted with the application would appear to show internal windows (but these are not annotated as such). It is assumed that these are obscured internal windows that allow some light to penetrate but maintain privacy, but this is not stated on the file. Notwithstanding, I would not be of the view that the provision of same would allow for sufficient daylight or sunlight to reach the bedrooms in question.
- 7.2.7. I would have concerns, too, in relation to the lack of any aspect from Bedrooms 2 and 3, and this too would contribute to a substandard form of development.
- 7.2.8. As such, and having regard to the considerations above, I am of the view that the standard of accommodation provided is not sufficient.
- 7.2.9. I would note that the appellant has stated that the current occupiers are satisfied with the standard of accommodation, and that the development would not set a precedent, as this unit in question is the only such unit within the block that can be

converted to the configuration under consideration here. In relation to same, while I accept that the accommodation may suit the needs of the current occupiers, the application of proper residential standards is a wider planning issue, and such standards should be seen to apply uniformly, and not on case-by-case basis. While I have sympathy with the need for an additional bedroom, given the circumstances set out by the appellant, such circumstances are not a material consideration here and cannot override the requirement for standards of accommodation that are consistent with national guidance on same, which are set out in the above S28 Guidelines.

- 7.2.10. Given the concerns raised above, I am minded to concur with the assessment of the Planning Authority, and I am recommending refusal on this basis (as per Section 8 and 9 below).

7.3. Minimum Unit Size (New Issue)

- 7.3.1. While not raised as a specific concern within the Planner's report, I would note that, by virtue of being amended from a 2 bed to a 3 bed unit, the overall unit size of 83 sq. m. would now fall below the minimum unit size for a 3 bed unit (90 sq. m) as set out in SPPR3 of the 'Design Standards for New Apartments', and as referenced in Appendix 6 Section 1.5.5 Apartment Standards of the Kerry County Development Plan. I would note that, while the Board is required to 'have regard' to the content of the Design Standards, they are required to 'apply' any specific planning policy requirements (SPPRs) within same.
- 7.3.2. However, given the specific wording of the Planning Authority's reason for refusal, which does not refer to the issue of overall unit size, I am of the view that same may be considered a 'New Issue' in the context of this appeal. However, should the Board be minded to refuse permission, in line with my recommendation below, the applicant should be made aware of this issue, should any further applications for retention come forward for consideration.

7.4. Other Issues

- 7.4.1. Building Regulations - The Planning Authority has raised concerns in relation to potential non-compliance with Building Regulations, as relates to fire safety and escape routes, and this would appear to be a valid concern, although compliance with same is not a matter under consideration under this s37 appeal, rather it is a matter dealt with by a separate body of legislation.

8.0 Recommendation

- 8.1.1. I recommend that retention permission be **Refused** as per the reasons and considerations below.

9.0 Reasons and Considerations

1. The reconfigured apartment unit proposed for retention is considered to be substandard in relation to the provision of daylight, sunlight and aspect, having regard to the lack of external windows serving Bedrooms 2 and 3. As such, the development proposed for retention is contrary to the standards as set out in the Sustainable Urban Housing: Design Standards for New Apartments Guidelines for Planning Authorities (December 2022) and is contrary to Policy KCDP 4-40 of the Kerry County Development Plan 2022-2028.

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.

Rónán O'Connor
Planning Inspector

20th March 2025

Appendix 1 - Form 1 EIA Pre-Screening

An Bord Pleanála	ABP-321681-25		
Case Reference			
Proposed Development Summary	Retention of ground floor apartment as constructed.		
Development Address	Apartment No. 1, Blasket House, Goat Street, Dingle, Co. Kerry		
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	X
		No	
2. Is the proposed development of a CLASS specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended)?			
Yes	X	Class (10)(b)(iv) of Schedule 5 Part 2 : Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere	Proceed to Q3.
No			
3. Does the proposed development equal or exceed any relevant THRESHOLD set out in the relevant Class?			
Yes			
No	X		Proceed to Q4

4. Is the proposed development below the relevant threshold for the Class of development [sub-threshold development]?			
Yes		<p><i>Urban development which would involve an area greater than 2 ha in the case of a business district, 10 ha in the case of other parts of a built-up area and 20 ha elsewhere</i></p> <p>The relevant threshold is 10ha. The stated site area is 0.89 Ha.</p>	Preliminary examination required (Form 2)

5. Has Schedule 7A information been submitted?		
No	X	Screening determination remains as above (Q1 to Q4)
Yes		

Inspector: _____

Date: _____

Appendix 2 - Form 2 - EIA Preliminary Examination

An Bord Pleanála Case Reference	As per Form 1	
Proposed Development Summary	As per Form 1	
Development Address	As per Form 1	
The Board carries out a preliminary examination [Ref. Art. 109(2)(a), Planning and Development Regulations 2001 (as amended)] of, at least, the nature, size or location of the proposed development having regard to the criteria set out in Schedule 7 of the Regulations.		
	Examination	Yes/No/ Uncertain
Nature of the Development Is the nature of the proposed development exceptional in the context of the existing environment? Will the development result in the production of any significant waste, emissions or pollutants?	<p>The proposed development is for the retention of ground floor apartment as constructed. There are other residential developments in this town centre location. The development proposed for retention would therefore not be exceptional in the context of the existing environment in terms of its nature.</p> <p>The development proposed for retention would not result in the production of any significant waste, emissions or pollutants.</p>	<p style="text-align: center;">No</p> <p style="text-align: center;">No</p>
Size of the Development Is the size of the proposed development exceptional in the context of the existing environment?	<p>The development would generally be consistent with the scale of surrounding developments and would not be exceptional in scale in the context of the existing environment.</p>	No

Are there significant cumulative considerations having regard to other existing and/or permitted projects?	There would be no significant cumulative considerations with regards to existing and permitted projects/developments.	No
<p>Location of the Development</p> <p>Is the proposed development located on, in, adjoining or does it have the potential to significantly impact on an ecologically sensitive site or location?</p> <p>Does the proposed development have the potential to significantly affect other significant environmental sensitivities in the area?</p>	<p>The development proposed for retention would not have the potential to significantly impact on an ecologically sensitive site or location. There is no hydrological connection present such as would give rise to significant impact on nearby water courses (whether linked to any European site or other sensitive receptors). The development proposed for retention would not give rise to waste, pollution or nuisances that differ significantly from that arising from other urban developments.</p> <p>Given the nature of the development and the site/surroundings, it would not have the potential to significantly affect other significant environmental sensitivities in the area. It is noted that the site is not designated for the protection of the landscape or natural heritage and is not within an Architectural Conservation Area.</p>	<p>No</p> <p>No</p>
<p align="center">Conclusion</p>		
<p>There is no real likelihood of significant effects on the environment.</p> <p>EIA not required.</p>		

Inspector: _____

Date: _____